United States Court of Appeals

for the Second Circuit

APPENDIX

76-2090

IN THE

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

No. 76-2090

RICHARD E. KASPEREK

Petitioner-Appellant

vs.

DONALD RUMSFELD, SECRETARY OF DEFENSE and COMMANDANT, UNITED STATES MARINE CORPS and CAPTAIN E. D. MILLER

Respondents-Appellees

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

JOINT APPENDIX

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PAGINATION AS IN ORIGINAL COPY

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GOVERNMENT EXHIBIT 12
FENGAD Bayonne, N.J.

UNITED STATES MARINE CORPS
Recruiting Station
Room 205, Federal Building
111 West Huron Street
Buffalo, New York 14202

STATEMENT OF UNDERSTANDING
GROUND ENLISTMENT OPTIONS PROGRAM
GROUND SUBPROGRAMS

~~KASPEREK, RICHARD [illegible]~~ ~~24 MARCH 1975~~
(Name and Social Security Number) (Date)

Today I have enlisted in the Marine Corps and have been promised that I will be assigned, after I successfully complete recruit training, to the Ground Subprogram ELECTRICAL. I understand that ~~everything~~ on this page applies to me.

1. I understand that I will be given a basic military occupational speciality within the following area which I have initialed.

a. (For Groudn Subprogram Combat). Either Infantry, Field Artillery or Tank/Amphibian Tractor, whichever the Marine Corps decides. _____

b. (For Ground Subprogram Combat Support). Either Field Artillery, Construction/Equipment/Shore Party, Tank/Amphibian Tractor, whichever the Marine Corps decides. _____

c. (Ground Subprogram Administrative). Either personnel Administration, Intelligence, Operational Communications, Data Processing, or Legal, whichever the Marine Corps decides.

_____

d. (Ground Subprogram Supply, Logistics, Disbursing). Either Logistics, Supply Administration and Operations, Transportation, Repair Services, Auditing, Financing and Accounting or Marine Corps Exchange, whichever the Marine Corps decides.

_____

e. (Ground Subprogram Mechanical, Electrical). Either Utilities, Construction, Equipment and Shore Party, Armament Repair, Ammunition and Explosive Ordnance Disposal, Operational Communications, Repair Services, or Motor Transport, whichever the Marine Corps decides. R.K.K

2. I also understand that there are many different jobs in this area, and that the Marine Corps will decide exactly what job in this area I will get. I understand that there is NO GUARANTEE I will get the exact job or duty assignment I want.

3. I understand that there is NO GUARANTEE that I will be sent to a school.

4. I understand that I can be taken out of the program for any one of three reasons:

a. If I do not pass the training course I am assigned to; or

b. If I am disciplined because of my behavior; or

c. If I have not told the truth about my education, qualifications or anything else that has to do with whether I am qualified for the program I have signed up for.

5. I understand that if I am taken out of the program for any of these reasons, I will be given another job in the Marine Corps that may have nothing to do with the program I signed up for.

6. I understand that I will be guaranteed assignment in a job in the military occupational speciality for which I am trained for at least one (1) year, provided that I maintain all required mental, physical and moral standards and qualifications throughout this period, as determined by responsible Marine Corps officials. Upon completion of that year I will be eligible to apply for, or be assigned to other duties/assignments throughout the Marine Corps.

7. I understand that I will be trained, like every Marine, as a member of a Marine combat team, and that I may have to serve in combat. (Not applicable to Women Marines). I understand that, like every Marine, I may serve on mess duty, guard duty, cleanup duty, and other duties that promote good order and discipline.

8. I understand that I am signing up in the Marine Corps for four R.E.K years, and that I will have to serve four R.E.K years even if I am taken out of the program for one of the reasons listed in paragraph 4.

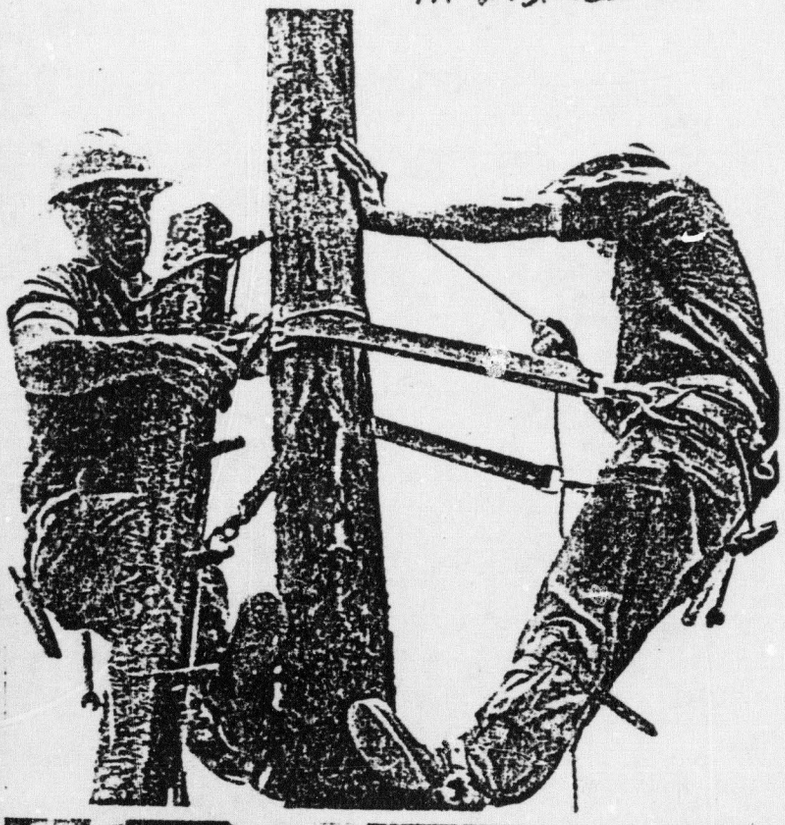
9. Finally, I understand that the recruiter can not change any of this, and that the Marine Corps can promise me only what is on this piece of paper.

John L. Doe
Signature of Recruiting Service Representative

Richard Edwin Roepsie
Signature of Enlistee

971175
Subprogram Control Number

Cpt. Cameron
JOB
111 W. Hubert St



A Guide for Counselors

Occupational Opportunities for Men and Women in the U.S. Marine Corps.

GOVERNMENT EXHIBIT 1
FENGAD - Bayonne, N.J.

Occupational Opportunities in the U.S. Marine Corps

If you've always thought of the Marine Corps as an elite military organization steeped in pride and tradition . . . you're right. But only partially right.

Today, the Marine Corps, like any large, efficiently run organization, needs highly skilled personnel to fill a wide variety of meaningful jobs. Jobs that are not only relevant to the Corps, but are important in the civilian world as well.

This booklet describes the many occupational opportunities available to qualified young men and women in the United States Marine Corps. There are brief descriptions of the various occupational fields, some of the specialist jobs within those fields and examples of some of the subjects taught to Marines training in those fields. There are many challenges and rewards for both men and women.

For Men

For the young man who completes Marine recruit training there is an opportunity to progress and learn valuable skills. Skills that can lead to good jobs in or out of the Corps. Jobs like computer operator, aircraft maintenance, or food service specialist to name just a few. And now qualified men may choose the direction their training will take them *before* enlistment. For more information about this ask a Marine representative about the new "option programs."

For Women

For the young woman who is looking for more than just a job, the Marine Corps can be the "career corps." There are plenty of opportunities to grow. Learn. Take charge. To be involved in essential assignments in such diverse fields as Intelligence, Computers and even Band. These are just a few of the rewarding and interesting jobs young women may pursue. Opportunities for women on the following pages are pinpointed with this

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4

01 Personnel and Administration

Available To Women

Administrative Clerk (w): Performs or supervises clerical and administrative duties, performs various duties in the classification and assignment of personnel. ***Basic Administrative Man (w):*** Performs routine personnel classification, clerical or postal duties. ***Personnel Clerk (w):*** Performs clerical and administrative duties in a reporting unit. ***Postal Clerk (w):*** Performs duties in the operation of a Marine Corps Post Office. ***Personnel Chief (w):*** Performs supervisory duties in the administrative section of a reporting unit. ***Personnel/ Administrative Chief (w):*** Performs supervisory duties in an administrative or personnel office. ***Unit Diary Clerk (w):*** Performs clerical and administrative duties incident to the preparation of the unit diary. *(w)*=Assignments available to Women Marines

Some of the Specialist Jobs

Basic Administrative Man
Administrative Clerk
Postal Clerk
Personnel Chief
Unit Diary Clerk
Personnel/Administrative Chief
Personnel Clerk

Examples of Subjects Studied

Interviewing, testing and assigning of personnel
Occupational analysis
Typing
Office procedures
Correspondence writing
Classification procedures
Order writing
Postal procedures

02 Intelligence

Available To Women

Counterintelligence Assistant: Assists in establishing and maintaining security control measures against espionage, sabotage and subversive activities. ***Intelligence Man (w):*** assists in collecting, recording, evaluating, interpreting and disseminating intelligence information. ***Imagery Interpreter (w):*** Makes detailed study of aerial photographs and performs other duties to provide information for planning and conducting operations. ***Intelligence Chief:*** Supervises and assists in the collection, recording, evaluating, interpreting and disseminating intelligence information in both air and ground units. ***Interrogator-Translator:*** Conducts interrogation in foreign language, translates written material and interprets conversation from one language to another. *(w)*=Assignments available to Women Marines

Some of the Specialist Jobs

Counterintelligence Assistant
Intelligence Chief
Intelligence Man
Imagery Interpreter
Interrogator-Translator

Examples of Subjects Studied

Use of stereoscope
Aerial photographic interpretation
Technique of interrogation of prisoners of war
Handling and processing captured personnel, documents and material
Preparation of terrain models
Drafting
Languages

03 Infantry

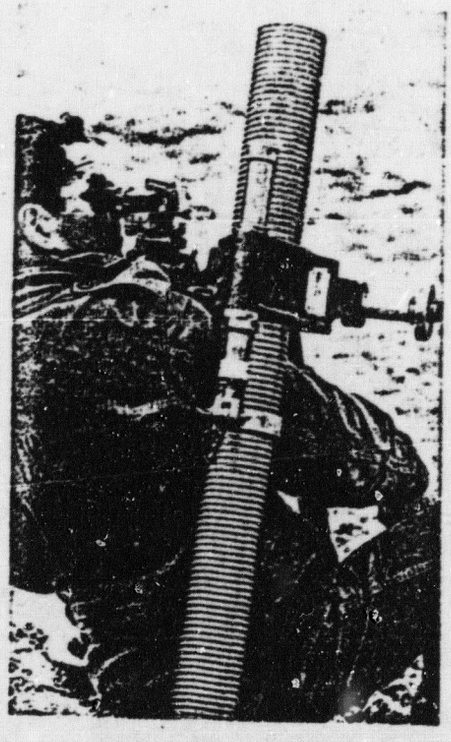
Rifleman: Participates in, or supervises, the training, routine functioning and tactical employment of a rifle unit. *Machine Gunner:* As a member of a machine gun unit, performs, or supervises the performance of, various duties for the firing, maintenance and tactical employment of machine guns. *Mortar Man:* As a member of a mortar unit performs, or supervises the performance of, various duties for the firing, maintenance, and tactical employment of mortars. *Antitank Assaultman:* As a member of an antitank or antitank assault unit, performs, or supervises the performance of, various duties incident to the firing, maintenance and tactical employment of antitank and assault weapons. *Infantry-Reconnaissance Duty*—Highly qualified infantrymen who are volunteers are sent to specialized schools to learn additional skills such as underwater swimming, parachute jumping, and scouting to aid them in performing specialized reconnaissance missions.

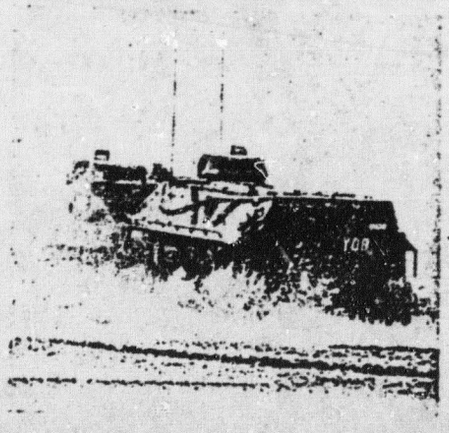
Some of the Specialist Jobs

Rifleman
Machine Gunner
Mortar Man
Infantry Unit Leader
Antitank Assault Man

Examples of Subjects Studied

Maintenance and operation of Infantry weapons—rifle, machine gun, mortar, automatic rifle, etc.
Scouting and patrolling
Map reading
Techniques of camouflage
Leadership principles
Hand-to-hand combat techniques
Demolitions
General Infantry tactics





Embarkation Assistant: Performs various duties in the planning and execution of movement of troops, supplies, and equipment by land, sea, and air. *Logistics Man (w):* Performs various clerical duties incident to the functioning of a logistic section.
(w)=Assignments available to Women Marines

04 Logistics

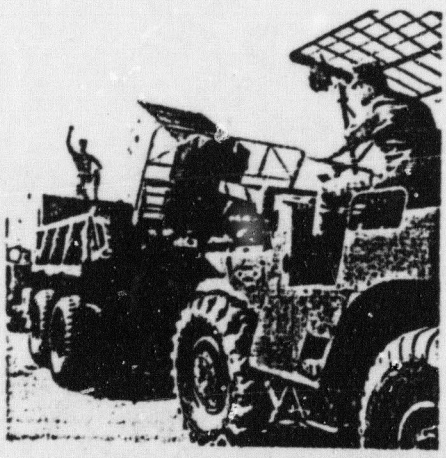
Available To Women

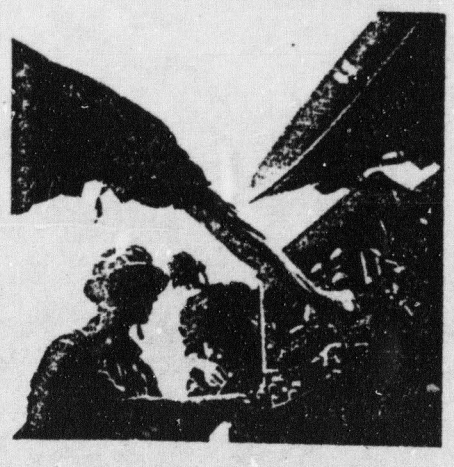
Some of the Specialist Jobs

Basic Logistics Man *(w)*
Embarkation Assistant
Logistics Man *(w)*

Examples of Subjects Studied

Embarkation procedures
Duplicating machine operation
Typing
Supply forms and publications
Planning the movement of troops, supplies and equipment by land, sea, and air.





08 Field Artillery

Field Artillery Batteryman: As a member of a field artillery gun or howitzer battery, performs various duties incident to the firing and maintenance of field artillery pieces and equipment. *Field Artillery Radar Operator:* Performs various duties incident to the installation, orientation and operation of field artillery radar equipment. *Field Artillery Fire Control Man:* Performs various survey and fire direction duties incident to the control of artillery fire. *Artillery Scout Observer:* Performs various duties incident to observing, coordinating, and conducting artillery and naval gunfire. *Artillery Meteorological Man:* Observes weather conditions and computers and distributes weather data for use in field artillery and antiaircraft artillery fire control. *Shore Fire Control Party Man:* As a member of naval gunfire shore fire control party or naval gunfire team, performs various duties incident to the control of naval gunfire. *Field Artillery Operations Man:* Performs various duties incident to the operation of a field artillery fire direction center or operations and training section.

Some of the Specialist Jobs

Field Artillery Batteryman
Field Artillery Radar Operator
Field Artillery Fire Control Man
Artillery Scout Observer
Artillery Meteorological Man
Shore Fire Control Party Man
Field Artillery Operations Man

Examples of Subjects Studied

Electricity
Mathematics
Electronics
Meteorology
Surveying

11 Utilities

Plumber and Water Supply Man: Installs, operates, maintains and repairs plumbing, heating, sewage, fumigation-bath and water equipment, systems and accessory material. ***Electrician:*** Installs, operates, maintains, and repairs electrical equipment, systems and accessory material. ***Refrigeration Mechanic:*** Installs, operates, maintains and repairs refrigeration and air-conditioning equipment, systems and accessory material. ***Electrical Equipment Repairman:*** Inspects, tests, maintains, and repairs electrical and electronic circuits, controls and components of electrically operated electricity producing equipment.

Some of the Specialist Jobs

Plumber and Water Supply Man
Refrigeration Mechanic
Utilities Chief
Electrician
Electrical Equipment Repairman

Examples of Subjects Studied

Well digging operations
Pipefitting
Electric motors
Water purification
Principles of refrigeration and air conditioning
Heat transfer theory and application
Wire splicing
Pumps and filters
Boilers and boiler operation
Mathematics
Electrical Theory

Construction, Equipment and Shore Party

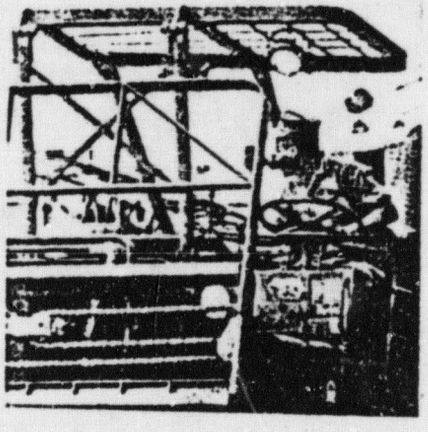
Metal Worker: Operates sheet metal forging and welding equipment to fabricate, strengthen, repair or modify ferrous or nonferrous metals. *Engineer Equipment Mechanic:* Inspects, services, maintains and repairs engineer equipment. *Engineer Equipment Operator:* Operates tractors, cranes, compressors, graders and other engineer equipment. *Combat Engineer:* Designs and constructs fixed and floating bridges; mine warfare and demolition specialist; performs tasks in carpentry and concrete construction work; skilled in rigging; breaching team member in combat operation; performs engineer reconnaissance and emplacement and detonation of atomic demolitions. *Shore Party Man:* As a member of a shore party organization, performs various duties in organizing and defending landing beaches and maintaining the supply and evacuation system in initial stages of an amphibious operation. *Bulk Fuel Man:* Installs, operates, maintains and repairs fuel storage, transfer, dispensing and accessory equipment. Tests petroleum products, analyzes and evaluates whether minimum usable fuel specifications are met. Knowledgeable in the concept and installation and operations of the amphibious assault bulk fuel handling system. *Ground Control Equipment Mechanic:* Operates, maintains and repairs GCA primary power systems and associated equipment. *Atomic Demolition Employment Technician:* Executes ADEM Missions to include pre-fire procedures for nuclear demolition munitions.

Some of the Specialist Jobs

Engineer Equipment Operator
Combat Engineer
Bulk Fuel Man
Shore Party Man
Metal Worker
Engineer Equipment Mechanic
Engineer Equipment Chief
Ground Control Approach Equipment Mechanic
Atomic Demolition Employment Technician

Examples of Subjects Studied

Forge
Pattern layout
Shaping and cutting
Repair, maintenance and operation of construction equipment
Carpentry
Welding
Demolitions
Principles of Bridging
Road Construction
Atomic Demolitions



9

14 Drafting Surveying and Mapping

Basic Drafting, Surveying and Mapping Man: Performs routine duties incident to determination of surveying data, preparation of architectural and mechanical drawings, and construction of topographic maps. *Map Compiler:* Constructs topographic/hydrographic maps, charts and mosaics from field survey data and/or aerial photographs. *Cartographer:* Supervises or assists in the supervision of personnel engaged in topographic/hydrographic surveying and photo-topography. *Mapping Chief:* Manages and coordinates supervision of photo-topography, topographic, hydrographic and construction survey functions. *Construction Draftsman:* Prepares architectural and mechanical drawings. *Surveyor:* Determines surveying data used in the preparation of military map and for construction projects. *Surveying and Drafting Chief:* Supervises or assists in the supervision of personnel engaged in topographic surveying, drafting and photography.

Some of the Specialist Jobs

Basic Drafting, Surveying and Mapping Man
Surveyor
Map Compiler
Construction Draftsman
Cartographer
Mapping Chief
Surveying and Drafting Chief

Examples of Subjects Studied

Map and aerial photograph reading
Sketching
Mathematics
Construction layout
Earthwork plotting and computing
Photomapping Control
Photogrammetry
Transit traverse
Triangulation
Leveling
Topographic Computing
Cartographic Drafting

15 Lithography

Lithographer (w): Lays out and prepares copy for camera work, produces and strips negatives and positives; prepares lithographic plates; corrects proofs, operates process cameras, presses and bindery equipment; cleans lubricates, and makes timing and alignment adjustments to machinery and equipment.
(w)=Assignments available to Women Marines

Some of the Specialist Jobs

Lithographer

Available To Women

Examples of Subjects Studied

Process photography
Plate process
General photography
Mathematics
Chemistry of Lithography
Offset printing

18 Tank and Amphibian Tractor

Tank Crewman: As a member of a tank crew or unit, operates and maintains tanks, and performs routine administration and tactical employment of a tank unit.

Amphibian Tractor Crewman: As a member of an amphibian tractor crew or unit, has duties incident to operation and maintenance of amphibian tractors, and routine administration and tactical employment of an amphibian tractor unit.

Some of the Specialist Jobs

Tank Crewman
Amphibian Tractor Crewman

Examples of Subjects Studied

Operation and maintenance of motor and tracked vehicles
Tactical employment
Protective and decontamination procedures
Electricity
Map reading
Camouflage
Preventive maintenance and minor mechanical repairs
Gunnery
Radio communications

21 Armament Repair

Infantry Weapons Repairman: Inspects, maintains, and repairs infantry weapons. *Artillery Weapons Repairman:* Inspects, maintains, and repairs artillery weapons. *Repair Shop Machinist:* Operates machine tools and welding equipment to fabricate, repair or modify metal parts for engineer, motor transport, weapons and accessories. *Optical Instrument Repairman:* Inspects, maintains, and repairs fire control optical instruments. *Tracked Vehicle Repairman:* Inspects, maintains, and repairs combat tracked vehicles including turrets, armaments, and fire control material. *Turret Repairman:* Inspects, installs, maintains, and repairs combat vehicle turrets.

Some of the Specialist Jobs

Weapons Technician
Repair Shop Machinist
Artillery Weapons Repairman
Optical Instrument Repairman
Infantry Weapons Repairman
Turret Repairman
Tracked Vehicle Repairman
Rifle Team Equipment Repairman

Examples of Subjects Studied

Repair and maintenance of infantry and artillery weapons
Hand tools
Shop mathematics
Machine shop and practice organization
Welding and Heat treatment of metal
Operation, maintenance and repair of tank and amphibian tractor weapons
Electricity and Hydraulics

Ammunition Technician: Receives, stores, issues, and disposes of ammunition, explosives and dangerous chemicals. *Explosive Ordnance Disposal Technician:* Is responsible for the location and disposal of unexploded bombs, ammunition, nuclear warheads and other ordnance material.

23 Ammunition and Explosive Ordnance Disposal

Some of the Specialist Jobs

Ammunition Technician
Explosive Ordnance Disposal Technician

Examples of Subjects Studied

Characteristics of projectiles, bombs, mines, and fuses
Use of excavating, rigging and explosive ordnance disposal equipment
Ammunition inspection and renovation
Demolition and high explosives
Nuclear Weapons Design
Nuclear Weapons Detonation
Nuclear Weapons Hazards
Nuclear Weapons Effects

25 Operational Communications

Available To Women

Wireman: Lays and maintains field wire; installs and operates field telephone switchboards. Installs field telephone equipment. *Field Radio Operator:* Sets up, operates by voice, and performs preventive maintenance to field radio equipment. *Communications Center Man (w):* Performs functions in connection with the acceptance, preparation for transmission, receipt and delivery of messages. *Radio Telegraph Operator:* Sets up, operates by radio telegraph or voice, and performs preventive maintenance to field radio equipment. *Radio Relay Operator:* Installs, operates and performs preventive maintenance on field radio relay and associated equipment.
(w)=Assignments available to Women Marines

Some of the Specialist Jobs

Wireman
Radio Telegraph Operator
Message Center Man
Radio Chief
Field Radio Operator
Communication Chief
Microwave Equipment Operator
Radio Specialist
Cryptographic Specialist
Cryptographic Linguist
Special Radio Operator
Special Communications Operator
Special Electronics Operator/Analyst
Communications Center Chief

Examples of Subjects Studied

International Morse Code
Electricity and Magnetism
Preparation of military messages
Installation, operation and maintenance of teletypewriter equipment
Installation, operation and maintenance of field radio equipment

8 Telecommunications Maintenance

Available To Women

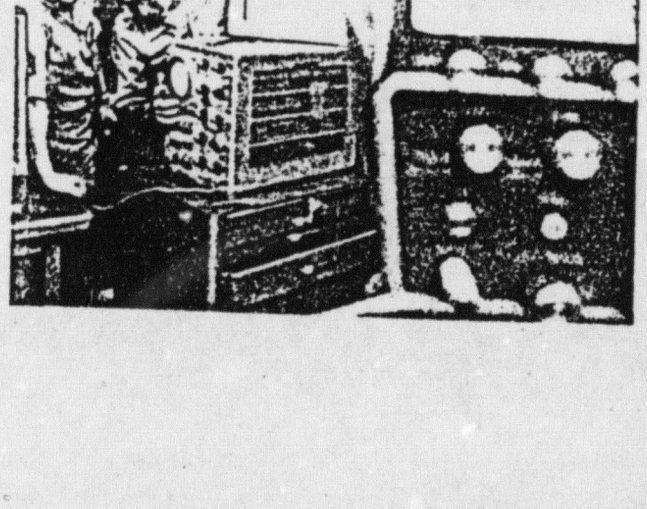
Telephone-Teletype Technician (w): Installs, inspects, maintains and repairs telephone-teletype and related equipment. *Radio Relay Repairman:* Installs, inspects, maintains and repairs radio relay equipment used by ground and aviation units. *Radio Repairman (w):* Installs, inspects, maintains and repairs radio and sound equipment used by ground units. *Aviation Radio Repairman:* Installs, inspects, tests, maintains and repairs aviation ground radio equipment. *Radio Technician (w):* Installs, inspects, maintains and repairs radio and other telecommunications equipment used by ground and aviation units. *Calibration Technician (w):* Calibrates precision electronic, mechanical, dimensional and optical test instruments through the use of measurement standards having a high order of accuracy. *Cable Systems Technician:* Locates trouble in telephone cables, using standard test equipment.
Central Office Installer—Repairman: Installs central office equipment, such as manual and dial telephone systems.
(w)=Assignments available to Women Marines

Some of the Specialist Jobs

Radio Relay Repairman
Radio Repairman
Aviation Radio Repairman
Radio Technician
Calibration Technician
Telecommunications Crypto Repairman
Telephone-Teletype Technician
Cable Systems Technician
Central Office Installer-Repairman

Examples of Subjects Studied

Fundamentals of electricity
Radio mechanics
Identification of radio parts
Teletype equipment
Telephone equipment
Radio transmitters and receivers
Installation of telephone and teletype equipment
Use of electronic testing equipment
Schematic wiring diagrams
Power supplies



30 Supply Administration and Operations

Available To Women

Supply Administrative Man (w): Performs clerical and administrative duties incident to requisitioning, purchasing, receiving, storing, shipping, issuing and accounting for supplies and equipment for units operating under Marine Corps supply procedures. *General Warehouseman:* Performs various duties pertaining to the receipt, storage, issue, maintenance, sale, handling, and preparation for shipment of supplies and equipment in supply operations at all levels of command. *Subsistence Supply Man (w):* Performs clerical and stock handling duties incident to funding, requisitioning, purchasing, receiving, accounting and storing subsistence supplies required for issue to troop consumption and/or for resale activities, units, and organizations. *Aviation Supply Man (w):* Performs clerical, stock handling and administrative duties required in the operation and administration of an aviation supply activity, including requisitioning, purchasing, and accounting for supplies and equipment used by Marine Corps aviation units. *Procurement Supply Man (w):* Performs various duties incident to the procurement of, and payment for, supplies and services procured from open purchase sources. *Preservation, Packaging and Packing Specialist:* Performs various duties pertaining to preservation, packaging and packing of supplies and equipment for storage and shipment.
(w)=Assignments available to Women Marines

Some of the Specialist Jobs

Supply Administrative Man
General Warehouseman
Subsistence Supply Man
Procurement Supply Man
Navy Supply Man
Aviation
Preservation, Packing, and Packing Specialist

Examples of Subjects Studied

Classification and identification of stock and materials
Stock and inventory control
Use of office machines
Preparation of correspondence
Purchasing

31 Transportation

Available To Women

Freight Operations Man: Responsible for shipping and receiving, loading and unloading, and storing of supplies, equipment, and household and personal effects. *Freight Transportation Clerk (w):* Receives, stores, ships, loads, unloads, prepares forms for, and maintains records of, inbound and outbound shipments of cargo or supplies, equipment, and household and personal effects. *Passenger Transportation Clerk (w):* Performs technical traffic duties pertaining to movement of civilian and military personnel, individuals, groups, or military troop movements utilizing any or all modes of transportation including the planning of troop movements in scheduled service or on special train or charter air and bus basis within CONUS and to overseas areas.
(w)=Assignments available to Women Marines

Some of the Specialist Jobs

Freight Operations Man
Freight Transportation Clerk
Passenger Transportation Clerk

Examples of Subjects Studied

Transportation of supplies
Stock and inventory control
Property control and accounting
Use of office machines

32 Supply Services

Available To Women

Reclamation and Salvage Man: Collects, repairs, or prepares damaged or abandoned supplies and equipment, including canvas, leather and textile items, for reissue, sale or disposal; manufactures and repairs canvas and leather equipment and upholsters furniture. *Office Machine Repairman:* Performs or supervises inspections, maintenance, adjustment and repair of various office machines. *Laundry Machine Operator:* Launders, dry-cleans and presses clothing and related articles in mobile laundry units and at fixed installations.

Some of the Specialist Jobs

Office Machine Repairman
Laundry Machine Operator
Reclamation and Salvage Man

Examples of Subjects Studied

Maintenance and repair of office machines
Operation and maintenance of sewing machines
Repair and reconditioning of shoes, canvas, and leather equipment
Camouflage
Operation of steam pressers, hand and mangle irons

33 Food Service

Available To Women

Baker (w): Bakes bread and pastry products and manufactures ice cream and other frozen desserts in, or supervises a mess, post or field bakery. *Cook (w):* Prepares, cooks, and serves food and beverages in, or supervises a mess at post installations or field activities. *Cook, Specialist:* Performs the duties of a cook on a general officer's personal staff. Assists in planning formal and informal dinners and luncheons. Prepares and serves meals and beverages for formal and informal occasions applying appropriate rules of etiquette. Plans seating arrangements and floral displays for special occasions. Assists in providing for cleanliness, order and protective maintenance of the officers' quarters and the furniture and appliances therein. *Veterinary Technician (w):* Experienced in all phases of receipt and surveillance inspection of subsistence supplies.
(w)=Assignments available to Women Marines

Some of the Specialist Jobs

Baker
Cook
Cook Specialist
Food Services Technician
Veterinary Technician

Examples of Subjects Studied

Methods of cooking
Preparation of dehydrated foods
Nutrition and menu planning
Inspection and storage of food
Meat grading and cutting
Sanitation and pest control
Manufacture of bread
Dough mixing

34 Auditing, Finance and Accounting

Available To Women

Disbursing Man (w): Performs and/or supervises the various duties incident to the preparation, maintenance, and audit of military pay records and payments; the various duties incident to the preparation, computation and payment of vouchers for reimbursement for official travel and various duties incident to processing public vouchers, and internal accounting and administration of a disbursing office. *Auditing Technician (w):* Performs, and/or supervises, organizes and directs examinations of accounts, records and reports of nonappropriated funds of the Marine Corps. *Stores, Plant and Cost Accounting Man (w):* Performs or supervises various duties incident to the financial accounting for supplies and equipment in stock and maintenance of cost and plant accounting records. *Allotment Accounting Man (w):* Assists in the preparation of budgets, performs or supervises the duties of bookkeeping and reporting of appropriated funds. *Travel Clerk (w):* Examines travel orders for propriety of payments, computes entitlement and prepares vouchers for travel pay.
(w)=Assignments available to Women Marines

Some of the Specialist Jobs

Disbursing Man
Auditing Technician
Allotment Accounting Man
Stores, Plant, and Cost Accounting Man
Travel Clerk

Examples of Subjects Studied

Preparation of financial returns
Use of office machines
Auditing of payrolls
Principles of pay and allowances
Processing of invoices
Issuance of purchase orders

35 Motor Transport

Available To Women

Body Repairman: Inspects, maintains, repairs, and paints automotive bodies. *Automotive Mechanic:* Services, inspects, maintains, and repairs motor transport equipment. *Motor Vehicle Operator (w):* Operates wheeled passenger and cargo-carrying motor vehicles, and transports senior officers in passenger vehicles. *Truckmaster (w):* Performs various duties incident to dispatching motor vehicles either passenger or cargo-carrying vehicles.
(w)=Assignments available to Women Marines

Some of the Specialist Jobs

Motor Vehicle Operator
Truckmaster
Body Repairman
Automotive Mechanic

Examples of Subjects Studied

Internal combustion engine theory
Ignition
Carburetion
Wheel alignment
Power tool operation
Repair of electrical units
Comparison of diesel and gasoline engines
Hydraulically operated bull-graders
Brakes

40 Data Systems

Available To Women

Card Punch Operator (w): Operates card punch, verifying machines and/or 1232.534 optical scanner. *Electric Accounting Machine Operator (w):* Operates alphabetic and numeric electric accounting machines; operates tabulating machines. *Off-Line Equipment Operator (w):* Operates equipment used in preparing input and in processing output off-line from the main computer. *Data Systems Librarian (w):* Maintains a library of magnetic storage devices. Files magnetic storage devices according to classification and catalog designation. *Computer Operator (w):* Operates various types of computers and associated peripheral equipment to process data in accordance with scheduled operations. *Programmer (w):* Prepares and codes data on various types of computers. Develops and documents programs from system flow charts. Diagnoses tests and/or corrects programs written for processing data on various computers.

Some of the Specialist Jobs

Card Punch Operator
Electric Accounting Machine Operator
Off-Line Equipment Operator
Data Systems Librarian
Computer Operators
Programmers
Computer Analyst

41 Marine Corps Exchange

Available To Women

Bookkeeper (w): Maintains bookkeeping records and analyzes and verifies financial records of nonappropriated funds. *Exchange Man (w):* Performs sales and merchandise control duties incident to the operation of Marine Corps Exchange. All training OJT (On-the-Job Training).
(w)=Assignments available to Women Marines

Some of the Specialist Jobs

Exchange Man
Bookkeeper

Examples of Training Received

Display and arrangement of goods
Bookkeeping and accounting
Operation of office machines
Filing of invoices, vouchers, and other records
Special order procedures

43 Public Affairs

Available To Women

Press Information Man (w): Gathers material of news, feature, or informational value and prepares it for press release, for response to queries or for publication in newspapers and magazines within the Federal government. *Radio and Television Information Man (w):* Conducts, interviews and describes Marine Corps events, including combat operations. Prepares material for radio or television release, and produces recordings for subsequent rebroadcasts. *(w)*=Assignments available to Women Marines

Some of the Specialist Jobs

Press Information Man
Radio and TV Information Man
Radio and TV Script Writer
Editor
Reporter
Radio Announcer
Armed Forces Press Service
Armed Forces Radio and TV Service

Examples of Subjects Studied

Newswriting
Exhibits
Press photography
Public relations
Community relations
Radio and TV script writing
Radio and TV production
Public speaking
Press relations
Letterwriting and administration

44 Legal

Available To Women

Legal Clerk (w): Performs various duties dealing with legal and disciplinary matters incident to activities of a legal office. *Legal Reporter (w):* Performs legal operational, clerical and administrative duties incident to a legal office. Serves as a reporter for proceedings of special courts-martial and investigations. Operates stenotype machine or takes shorthand notes or records by using stenomask. *GCM Legal Reporter (w):* Performs legal operational, clerical and administrative duties incident to a general courts-martial level legal office. *(w)*=Assignments available to Women Marines

Some of the Specialist Jobs

Legal Clerk
Legal Reporter
General Courts-Martial Legal Reporter

Examples of Subjects Studied

Reporting procedures for Court Martial investigation and Courts of Inquiry
Procedures for operating courtroom equipment
Fundamentals of court procedures
History of the Uniform Code of Military Justice
Rules of evidence

18

46 Photography

Available To Women

Photographer (w): Operates still cameras, develops film, and prints photographs, or supervises still photographic activities. *Camera Repairman:* Tests, maintains, and repairs photographic equipment. *Motion Picture Cameraman:* Operates and maintains motion picture cameras. *Motion Picture Film Editor (w):* Edits, catalogs, and files motion pictures and performs related duties incident to the production of motion pictures. *Photojournalist (w):* Originates feature stories for release to both civilian and military press. Handles press contacts, composes and takes photographs with standard Marine Corps still camera equipment and accessories.
(w)=Assignments available to Women Marines

Some of the Specialist Jobs

Photographer
Motion Picture Cameraman
Motion Picture Film Editor
Camera Repairman
Photojournalist

Examples of Subjects Studied

Basic and advanced photographic processes
Use of ground cameras
Aerial photography, including mosaic map-making
Fundamentals of light and lenses
News photography
Copy and view camera techniques
Color photography

49 Training Support

Available To Women

Basic Training Support Man (w): Performs routine duties incident to the production, operation and maintenance of audiovisual aids and equipment. *Illustrator (w):* Creates or copies artistic or illustrative material in support of instruction and training. *Audiovisual Librarian (w):* Participates in the operations and functions of an audiovisual library. *Audiovisual Equipment Operator (w):* Operates audiovisual equipment in support of training/classroom instruction. *Audiovisual Equipment Technician (w):* Sets up, operates and maintains audiovisual equipment. *Training Support Chief (w):* Supervises and instructs enlisted personnel in audiovisual training support functions; supervises the overall operation and administration of a training support center.
(w)=Assignments Available to Women Marines

Some of the Specialist Jobs

Basic Training Support Man
Audiovisual Librarian (4921)
Audiovisual Equipment Technician (4941)
Sound Equipment Repairman
Projection Equipment Repairman
Illustrator/Artist

Examples of Subjects Studied

Drawing or painting designs, figures, signs and pictorial scenes
Prepares drawings and layouts for photographic slides
Use of standard lettering methods and airbrush techniques and standards
Mechanical drawing equipment
Fundamentals of reproducing drawings
Prepares topographic maps
Signs and symbols used in military maps
Repairs on electrical equipment
Operations of various training aids/mediating devices

55 **Band**

Available To Women

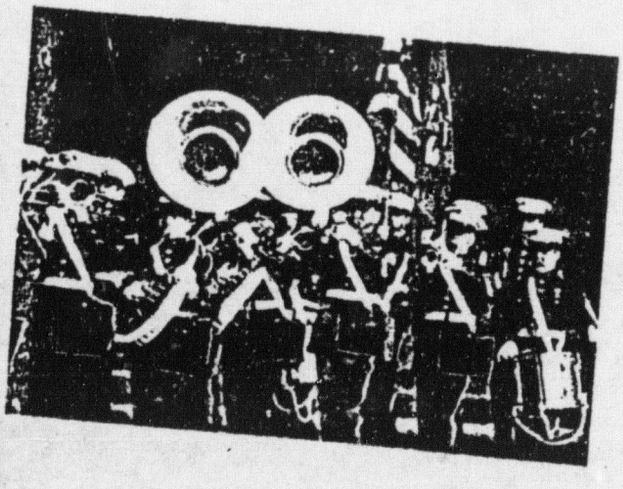
Bandsman (w): Performs musical duties on a musical instrument as a member of a Marine Corps band. *Instrument Repairman (w):* Inspects, maintains, repairs, and overhauls Marine Corps band and Drum and Bugle musical instruments and accessories. *Field Music Bugler (w):* Sounds regulation calls and commands on a bugle; performs musical duties on the bugle and/or snare drums, tenor drums, scotch drum, base drum, cymbals, tenor bugle, and baritone bugle as a member of a Drum and Bugle Corps. *Drummer, Drum and Bugle Corps, Rudimental Snare, Tenor, Timp-toms, Rudimental Base, Cymbals (w):* Performs musical duties on snare drum, and/or scotch drum, tenor drum, base drum, and cymbals as a member of a Marine Corps Drum and Bugle Corps, and sounds regulation calls and commands on a bugle.
(w) = Assignments available to Women Marines

Some of the Specialist Jobs

Bandsman
Drummer, Drum and Bugle Corps, Rudimental Snare, Tenor, Timp-toms, Rudimental Base, Cymbals
Field Music Bugler
Instrument Repairman
Enlisted Band Leader
Band Drum Major

Examples of Subjects Studied

Band and/or orchestra concert techniques
Military Band procedures
Methods and techniques of instrument repair
Sight reading
Organization of musical library
Music theory



Nuclear, Biological, and Chemical Specialist: Performs duties which involve operation of Nuclear, Biological, and Chemical (NBC) Section, including operation and maintenance of NBC protective equipment, and supervision and training of NBC defense personnel.

57 **Nuclear, Biological, and Chemical**

Some of the Specialist Jobs

Nuclear, Biological and Chemical Man
NBC Specialist

Examples of Subjects Studied

Nuclear warfare
Biological warfare
Chemical agents
Tactics and techniques of employing chemical and biological agents
Radiological defense
Intelligence

Military Policeman: Performs military police duties to enforce law and order and maintain military control and discipline. *Criminal Investigator:* Investigates incidents and offenses involving individual subject to the Uniform Code of Military Justice, or matters involving command interest. *Corrections Man:* Performs duties incident to the security, rehabilitation, accounting and control of confined personnel.

58 **Military Police and Corrections**

Some of the Specialist Jobs

Military Policeman
Accident Investigator
Criminal Investigator
Polygraph Examiner
Drug Investigator
Corrections Man
Correctional Counselor
Marijuana Detector Dog Handler

Examples of Subjects Studied

Corrections
Narcotics
Law Enforcement & Investigative Techniques
Security
Counseling
Polygraph Operation

59 Electronics Maintenance

Pulse Radar Fire Control Repairman: Installs, inspects, tests, maintains and repairs the HAWK pulse radar battery control central, assault fire control console, and range only radar. *Continuous Wave Radar Fire Control Repairman:* Installs, inspects, tests, maintains and repairs HAWK continuous wave illumination radar, HAWK continuous wave acquisition radar and associated power and test equipment. *HAWK Electronic and Mechanical Repairman:* Installs, inspects, tests, maintains and repairs the electronic and/or mechanical components of the HAWK missile, launcher, and loader, and electronics components of associated power generating and test equipment. *Ground Radar Technician:* Installs, inspects, tests, maintains and repairs lightweight search radar sets, countermortar radar systems, artillery data computer equipments, meteorological equipment and radar beacons used in naval gunfire. *Aviation Primary Air Control Radar Repairman:* Installs, inspects, tests, maintains and repairs aviation-ground primary air control radar and associated equipment employed by Marine Air Control Squadrons. *Aviation Alternate Air Control Radar Repairman:* Installs, inspects, tests, maintains and repairs aviation-ground alternate air control radar and associated equipment employed by Marine Air Control Squadrons. *Aviation Surveillance Radar Repairman:* Installs, inspects, tests, maintains and repairs aviation-ground surveillance radars and radar relay equipment. *Ground Control Approach Technician:* Installs, inspects, tests, maintains and repairs ground control approach systems. *Aviation Fire Control Technician:* Installs, inspects, tests, maintains and repairs aviation fire control systems. *Tactical Data Terminal Repairman:* Installs and operates all equipment groups of the Tactical Data Communications Central (TDCC). Inspects, tests, maintains and repairs digital circuitry of the data terminal group AN/TYA-17 of the TDCC. *Tactical Data Communications Group Repairman:* Installs and operates all equipment groups of the Tactical Data Communications Central (TDCC). Inspects, tests, maintains and repairs analog and digital circuitry of the Data Communications Group AN/TYA-19 of the TDCC. *Tactical Air Operations Central Repairman:* Installs, inspects, tests, maintains and repairs analog, digital and communications programming and buffering circuitry of the tactical data system. *Tactical General Purpose Computer Repairman:* Supervises and performs the installation, testing, maintenance and repair of tactical electronic digital data systems and associated peripheral equipment. *Digital Data System Technician:* Maintains electronic digital data systems and associated peripheral equipment. *Air Traffic Control Electronics Technician:* Installs, inspects, tests, maintains and repairs air traffic control surveillance radar systems with direct altitude, identify readout capability precision radar. *Phased Array Radar Repairman:* Installs, tests, maintains, and repairs the Phased Array Radar and associated equipment employed by Marine Air Control Squadrons. *Air Traffic Control Navigational Aids Technician:* Installs, inspects, tests, maintains and repairs air traffic control navigational aids and instrument landing system. *Air Traffic Control Radar Technician:* Installs, inspects, tests, maintains and repairs air traffic control surveillance radar and precision approach radar systems.

Continued on Page 39

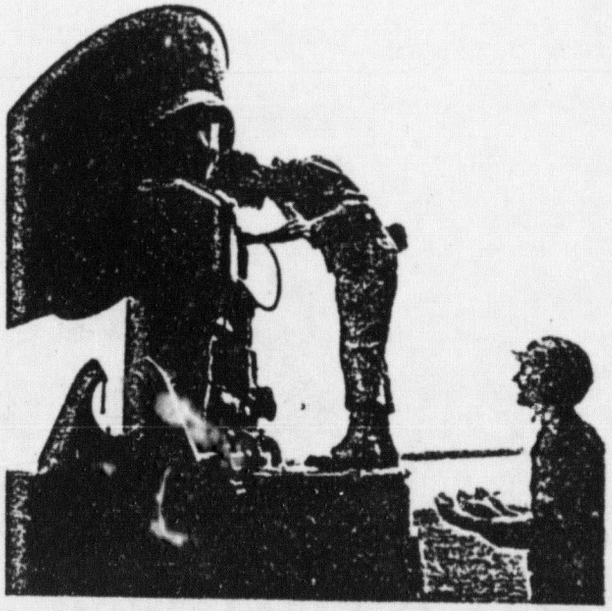
Some of the Specialist Jobs

Pulse Radar Fire Control Repairman
Continuous Wave Radar Fire Control Repairman
HAWK Electronic and Mechanical Repairman
Ground Radar Technician
Aviation Primary Air Control Radar Repairman
Aviation Alternate Air Control Radar Repairman
Aviation Surveillance Radar Repairman
Ground Control Approach Technician
Aviation Fire Control Technician
Tactical Data Terminal Repairman
Tactical Data Communications Group Repairman
Tactical General Purpose Computer Repairman
Digital Data System Technician

Examples of Subjects Studied

Electronics
Electrical Theory
Radar Circuitry
Digital Electronics Theory
Air Traffic Control Electronics Technician
Phased Array Radar Repairman
Air Traffic Control Navigational Aids Technician
Air Traffic Control Radar Technician

Electronics
Electrical Theory
Radar Circuitry
Digital Electronics Theory
Boolean Algebra
Schematic wiring diagrams
Diagnosis and location of malfunctions
Trouble shooting
Assembly and disassembly of equipment
Identification of parts
Repair and maintenance of equipment
Power supplies



60	61	**Aircraft Maintenance**	*Aircraft Mechanic:* Inspects, maintains aircraft airframes and airframe components; and performs duties relating to flight line operations. *Aircraft Power Plants Mechanics:* Inspects, maintains, tests, repairs and performs complete repair of aircraft power plants and power plants systems. *Aircraft Propeller Mechanics:* Responsible for the assembly, disassembly, installation, repair, inspection and maintenance of aircraft propellers. *Aircraft Flight Engineer, KC-130:* Monitors aircraft systems and operates the flight engineers panel during flight operations. *Aircraft Structures Mechanic:* Inspects, maintains and repairs aircraft structures and structural components. *Aircraft Hydraulic/Pneumatic Mechanic:* Inspects, maintains and repairs aircraft hydraulic/pneumatic systems and system components. *Aircraft Safety Equipment Mechanic:* Inspects, maintains and repairs aircraft centered safety equipment and systems. *Flight Equipmentman:* Inspects, maintains and repairs parachutes; flight survival equipment, flight equipment, carbon dioxide and gaseous and liquid oxygen equipment. *Cryogenics Equipment Operator:* Assembles, operates and maintains liquid oxygen/nitrogen generating plants, storage and aircraft servicing equipment, vaporizing equipment, vacuum pumps and LOX tank purging units. *Aircraft Maintenance Ground Support Equipment Mechanic:* Inspects, maintains, repairs and tests aircraft maintenance ground support equipment. Performs duties related to the operation of support equipment. *Aircraft Maintenance Ground Support Equipment Hydraulic/Pneumatic/Structures Mechanic:* Inspects, maintains and repairs Aircraft Maintenance Ground Support Equipment hydraulic/pneumatic/structures systems and system components. *Aircraft Maintenance Ground Support Equipment Electrician:* Installs, inspects, tests, maintains and repairs aircraft maintenance ground support equipment, electrical and instrument systems. *Aircraft Maintenance Ground Support Equipment Refrigeration Mechanic:* Inspects, tests, maintains and repairs aircraft maintenance ground support equipment refrigeration and air-conditioning equipment, systems and accessories. *Aircraft Maintenance Administration Clerk:* Maintains aircraft log books, Naval aircraft maintenance publications and files, and prepares reports, logs, records, directives and correspondence in an aircraft maintenance and repair activity. *Aircraft Maintenance Data Analysis Technician:* Analyzes charts for control, and programs maintenance and man hour statistical information to aid the maintenance manager and logistician in the performance of their assigned tasks. *Helicopter Mechanic:* Inspects and maintains helicopter airframes and airframe components; and performs duties relating to flight line operations. *Helicopter Power Plants Mechanic:* Inspects, maintains, tests, repairs and performs complete repair of helicopter power plants and power plant systems. *Helicopter Dynamic Components Mechanic:* Inspects, maintains, tests and repairs helicopter dynamic components.

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62 Avionics

Available To Women

Some of the Specialist Jobs

Aircraft Flight Engineer, KC-130
Jet Aircraft Mechanic/Plane Captain
Helicopter Mechanic/Helicopter Crew Chief
Aircraft/Helicopter Reciprocating Engine Mechanic
Aircraft Taxi Specialist
Jet Engine Mechanic
Helicopter Door Gunner
Certified Welder
Aircraft/Helicopter Hydraulics Mechanic
Aircraft Structures Mechanic
Aircraft Maintenance Administration Clerk
Aircraft Maintenance Data Analysis Technician
Flight Equipmentman
Cryogenics Equipment Technician
Aircraft Maintenance Ground Support Equipment Mechanic
Aircraft Maintenance Ground Support Equipment Hydraulic/Pneumatic/Structures Mechanic
Aircraft Maintenance Ground Support Equipment Electrician
Aircraft Maintenance Ground Support Equipment Refrigeration Mechanic

Examples of Subjects Studied

Theory of jet propulsion
Turbojet engine principles
Radial engines
Theory of air conditioning/refrigeration
Welding
Ignition and carburetion
Use of power tools and testing equipment
Jet/reciprocating engine disassembly, service inspection and assembly
Hydraulics
Parachute jumping
Metal fabrication principles
Parachute packing
Aviation oxygen and carbon dioxide
Safety equipment and systems
Aircraft logbooks, naval aircraft maintenance publications and files

Aircraft Communications/Navigation Systems Technician: Installs, inspects, tests, maintains and repairs aircraft communications/navigation systems. *Aircraft Radar Systems Technician:* Installs, inspects, tests, maintains and repairs equipment, components and ancillary items which compose aircraft radar systems. *Aircraft Armament Control Systems Technician:* Installs, inspects, tests, maintains and repairs equipment, components and ancillary items which comprise aircraft armament control radar systems. *Aircraft Electrical Systems Technician:* Installs, inspects, tests, maintains and repairs aircraft electrical and instrument systems. *Avionics Test Equipment and Calibration/Repairman:* Calibrates and repairs precision avionics test equipment. *Aviation Training Devices Technician/Instructor (w):* Inspects, maintains and repairs Operational Flight Trainers, Weapons Systems Trainers, Instrument Trainers and Part Task Trainers; and instructs Naval Aviators/Naval Flight Officers in technique of flight through use of synthetic aviation training devices. *Aviation Photographic Electronics Technician:* Installs, inspects, maintains, repairs and operates aerial photographic equipment, develops film and prints photographs. *Imagery Interpretation Equipment Repair Technician:* Installs, inspects, tests, maintains and repairs equipment, components and ancillary items peculiar to imagery interpretation installations.

(w)=Assignments available to Women Marines

Continued on Page 45

Some of the Specialist Jobs

Aircraft Communications/Navigation Systems Technician
Aircraft Radar Systems Technician
Aircraft Armament Control Systems Technician
Aircraft Electrical Systems Technician
Avionics Test Equipment Calibration/ Repairman
Aviation Training Devices Technician/ Instructor
Aviation Photographic Electronics Technician
Imagery Interpretation Equipment Repair Technician

Examples of Subjects Studied

Elementary electricity and physics
Aircraft radio
Radio navigational aids
Radar
Electronic circuit fundamentals
Interpretation and use of schematic diagrams
Guided Missile Nomenclature, guidance systems
Aircraft electrical systems
Aircraft instruments
Aerial photographic equipment
Darkroom procedures

65 Aviation Ordnance

Basic Aviation Ordnanceman: Performs routine duties incident to the ordering, receiving, storage, assembly and issue of air munitions; duties incident to the inspection, maintenance and repair of armament equipment and loading and check-out of ordnance on aircraft; duties incident to the accounting, storage, breakout assembly and test of ordnance/missiles carried on and launched from aircraft. *Aviation Ordnance Munitions Man.* Performs duties incident to ordering, receiving, storage, assembly, transportation and issue of air delivered munitions. *Aircraft Ordnance Technician:* Performs duties incident to the inspection, maintenance and repair to armament equipment and loading and check-out of aviation ordnance on the aircraft. *Aviation Ordnance Chief:* Supervises the establishment and functioning of aviation ordnance activities at all levels. *Aviation Ordnance/Missile Technician:* Performs duties incident to the accounting, storage, breakout, testing, assembly and transportation of ordnance/ missiles carried on and launched from aircraft.

Some of the Specialist Jobs

Basic Aviation Ordnanceman
Aviation Ordnance Munitions Man
Aircraft Ordnance Technician
Aviation Ordnance/Missile Technician
Aviation Ordnance Chief
Bomb and rocket loading
Gunsight alignment
Shop practices
Basic electricity
Hydraulics principles

67 **Air Control and Anti-Air Warfare**

Available To Women

Airport Control Tower Operator (w): Performs various duties incident to control of aircraft traffic at an airfield. Operates control tower. *Ground Controlled Approach Controller (w):* Operates ground-controlled radio and radar used in a radar talkdown system, aiding a pilot to a landing under weather conditions approaching zero visibility and ceiling. By voice, radio directs pilot through proper flight maneuvers necessary to complete final landing approach. Performs various other duties incident to radar control of aircraft traffic at an airfield. Operates in a Radar Air Traffic Control Center or a Marine Air Traffic Control Unit. *REDEYE Gunner:* Operates the REDEYE Guided Missile Weapon System to engage low-flying enemy aircraft. *HAWK Missile System Operator:* Performs duties incident to the operation of the HAWK surface-to-air missile system. *Anti-Air Warfare Batteryman:* Performs duties incident to assembly, handling and loading of anti-aircraft missiles, and operation of anti-aircraft missile launching systems. *Air Command and Control Electronics Operator:* Performs duties incident to the operation of tactical air support and command and control systems. *Airborne Radio Operator:* As member of aircraft crew, sets up, operates by radio telegraph or voice, diagnoses major malfunctions and performs preventive maintenance on airborne radio equipment in a Marine Corps transport aircraft. *Aerial Navigator:* Under the general supervision of a naval aviator or aviation pilot, navigates aircraft by geographical or celestial references over the surfaces of the earth.
(w)=Assignments available to Women Marines

Some of the Specialist Jobs

Airport Control Tower Operator
Ground Controlled Approach Controller
Air Control/Anti-Air Warfare Operator
REDEYE Gunner
HAWK Missile System Operator
Anti-Air Warfare Batteryman
Airborne Radio Operator
Aerial Navigator

Examples of Subjects Studied

Air traffic control
Aerology
Civil air regulations
Radio-telephone procedures
Weather reports
HAWK employment
Electronic counter-counter measures
Enroute traffic control
Tactical data system equipment operation
Radio code and navigation

68 **Weather Service**

Available To Women

Basic Weather Service Man (w): Performs routine duties incidental to observing and recording weather conditions. *Weather Observer (w):* Observes and records weather conditions, collects and distributes weather data. *Weather Observer/Rawinsonde Operator:* Observes and records weather conditions, collects and distributes weather data and conducts rawinsonde observations. *Weather Forecaster (w):* Forecasts weather trends and conditions.
(w)=Assignments available to Women Marines

Some of the Specialist Jobs

Basic Weather Service Man
Weather Observer
Weather Observer/Rawinsonde Operator
Weather Forecaster

Examples of Subjects Studied

Weather-map analysis
Teletype procedure
Aerological codes
Meteorology
Weather observations and analysis
Upper air soundings
Aerological mathematics and physics
Radar wind determination and weather interpretation

27

70 Aviation Operations

Available To Women

Aircraft Launch and Recovery Technician: Installs, operates, inspects, maintains and repairs aircraft launching and recovery equipment. *Aviation Operations Man (w):* Maintains aviation operations files and records and prepares and types reports, orders, and schedules pertaining to aviation operations and aviation safety. *Aircraft Crash, Fire and Rescue Man:* Employs aircraft fire-fighting equipment and extinguishing materials to rescue crews and passengers involved in aircraft crashes and to fight fire in and around grounded or crashed aircraft.
(w)=Assignments available to Women Marines

Some of the Specialist Jobs

Aircraft Launch and Recovery Technician
Aviation Operations Man
Aircraft Crash, Fire and Rescue Man

Examples of Subjects Studied

Various components of aircraft launching and recovery equipment
Preparation of strip charts for cross-country flights
Procedures for obtaining instrument-flight clearances
Theory of fires, fire-fighting equipment and rescue operations

71 Air Delivery

Basic Air Delivery Man: Under instruction and close supervision, performs routine duties incident to the air delivery and parachuting of personnel, supplies and equipment; assists a qualified specialist and participates in the functioning of unit to which attached. *Air Delivery Man:* Prepares supplies and equipment for air delivery from cargo aircraft in flight. Plans packaging and packing of supplies and equipment and supervises the loading and securing of cargo aboard aircraft.

Some of the Specialist Jobs

Air Delivery Man

Examples of Subjects Studied

Inspection, packing, repairing and maintenance of personnel and cargo parachutes and air delivery equipment; rigging, loading and securing cargo in aircraft; and in-flight preparation of cargo for ejection and recovery of parachutes and air delivery equipment.
Air movement and aerial delivery; ground training; tower training; jump training and physical training.
Use of the parachute as a means of transportation and in the technique and procedures utilized in the movement of troops and equipment as a means of transportation.

Schools Available to Any Occupational Field

Schools Available to Any Occupational Field:

Recruiter
Drill Instructor
Marine Security Guard School
Sea School
Correctional Counseling
Correctional Supervisors and Specialists
Air Transportability
Motion Picture Operator
Career Information and Counseling
Language Courses

Summary of Occupational Fields Available to Women

01 Personnel and Administration
02 Intelligence
04 Logistics
15 Lithography
25 Operational Communications
28 Telecommunications Maintenance
30 Supply Administration and Operations
31 Transportation
32 Supply Services
33 Food Service
34 Auditing, Finance and Accounting
35 Motor Transport
40 Data Systems
41 Marine Corps Exchange
43 Public Affairs
44 Legal
46 Photography
49 Training Support
55 Band
62 Avionics
67 Air Control and Anti-Air Warfare
68 Weather Service
70 Aviation Operations

Marine Corps Education Programs

Summary descriptions of educational opportunities in the Marine Corps are provided on these pages. These programs are representative of the educational oportunities available to you in the Corps. Stay in school. Your education is important to you and the Marine Corps.

In many cases formal service schooling will be accepted by high schools and colleges for academic credit.

Officer Candidate (Scholarship) Program . . . allows civilian applicants with less than a baccalaureate degree the opportunity to be assigned to an Officer Candidate Course with reasonable assurance that they will be afforded an opportunity to complete baccalaureate studies through the College Degree Program.

Eligibility: To be eligible the applicant must be at least 20 and not more than 25 years of age on the date of appointment to commissioned grade with sixty semester hours (or equivalent) of college level studies which would be transferable to a regionally accredited 4-year degree granting institution. He must have at least a 2.0 grade point average on a 4.0 scale.

Assistance: Officers who have been commissioned through the OC(S) Program and request this College Degree Program, are ordered to a college or university after having served 3 years on active duty; while at college they receive regular pay and allowances. Tuition and matriculation fees, cost of books and materials, and all similar fees and expenses will be borne by the officer concerned.

Navy Enlisted Scientific Education Program . . . provides selected enlisted Marines with the opportunity to earn a baccalaureate degree by attending a college or university as a full-time student. Those who successfully complete the program are commissioned second lieutenants in the Marine Corps.

Eligibility: To be eligible a Marine must be a corporal or above by 1 November of the year applying, at least 20 and not more than 26 at the time of entering college, and a high school graduate who ranked in the upper 50 percent of his class. As a high school graduate, he should have a minimum of 15 Carnegie units, of which four are in English, two in algebra, one in geometry, and one each in chemistry and physics. Non-high school graduates must have completed a minimum of three years of high school and must have passed the GED high school level tests with a minimum score within the 90th percentile on each test. In addition, the applicant must have a GCT of at least 120 and be recommended by his commanding officer.

Assistance: Enlisted Marines ordered to the Navy Enlisted Scientific Education Program receive regular pay and allowances. Tuition and matriculation fees, cost of books and materials, and all similar fees and expenses will be paid by the Marine Corps.

Areas of Study:

Electrical/electronic engineering
Mechanical engineering/ engineering mechanics
Civil engineering
Aerospace engineering
Industrial engineering
Metallurgical engineering
Engineering management/ administration
Industrial management
Systems/operations analysis
Computer science
Mathematics
Physics
Chemistry

Marine Associate Degree Program . . . provides selected enlisted Marines with the opportunity to earn an associate degree by attending a junior college as a full-time student.

Eligibility: To be eligible for this program, the Marine must be a member of the regular Marine Corps or Marine Corps Reserve on active duty in the grade of lance corporal or above. He must have completed not less than 3 nor more than 12 years of active service and have a GCT of at least 120 or a derivative score of 120 or more determined by the sum of the VA, AR, and PA scores of the Aptitude Area Classification Test divided by 3. The Marine must have no courts-martial on the current enlistment, be a high school graduate or possess an average standard score of 45 on all tests of the high school GED battery, and have 6 semester hours of post-high-school work or satisfactory completion of at least two parts (one part of which must be Part I-English) of the General Examinations of the College-Level Examination Program.

Assistance: The Marine Corps will pay all costs of tuition, books, laboratory fees, and all other required fees of an academic nature for a period of up to 21 consecutive months of school. Individual Marines will continue to draw normal pay and allowances, including proficiency pay, if previously authorized, and will pay all expenses associated with room and subsistence.

Areas of Study:

Engineering and applied mechanics
Electronics
Mechanisms
Drafting
Data processing
Industrial management
Marketing and purchasing
Secretarial studies

Secretary of the Navy Scholarship Program . . . provides Marines who have been offered a scholarship or grant to attend school with the authority to accept the award and attend the college or university where it was ordered.

Eligibility: Any naval person (Navy or Marine) on active duty, U.S. Naval Academy or NROTC midshipman who has won a scholarship for which he was authorized to compete by the Chief of Naval Personnel or the Commandant of the Marine Corps, is eligible for consideration for Navy or Marine Corps sponsorship. Applicants for scholarships for post-graduate study must have at least junior standing at an accredited degree-granting college or university. Enlisted personnel applying for scholarships that will enable them to obtain an undergraduate degree must not have reached age 27 prior to completing all the requirements for a baccalaureate degree.

Assistance: Marines attending school under the scholarship program receive full pay and allowances. However, an amount equal to any scholarship money above and beyond that required for school expenses will be deducted from the Marine's allowances for quarters and subsistence.

Tuition Assistance . . . provides Marines with financial assistance for courses taken during off-duty time from accredited high schools or colleges/universities for academic credit.

Eligibility: Personnel of the Regular Marine Corps, personnel of the Marine Corps Reserve on extended active duty, and personnel of other military services on active duty and attached to the Marine Corps are eligible for tuition assistance.

Assistance: The Marine Corps pays 75 percent of the cost of tuition for the course or courses taken.

Degree Completion Program for Staff Noncommissioned Officers . . . provides selected Marine SNCO's with the opportunity to earn a bachelor's degree by attending a college or university as a full-time student.

Eligibility: To be eligible, an applicant must be in the grades of a Sergeant selected for Staff Sergeant through First Sergeant/Master Sergeant. He must have 2 years' advance standing toward a bachelor's degree and must be accepted by a regionally accredited, degree granting college or university.

Assistance: Under the proposed Project Volunteer, participants will receive regular pay and allowances; in addition, the Marine Corps will cover the cost of tuition, textbooks and fees.

United States Armed Forces Institute (USAFI) . . . is a centralized institution which provides opportunities for military personnel on active duty to continue their education by means of correspondence courses, group study classes, and tests.

Eligibility: To be eligible one must have been on active duty for 120 days or more.

Assistance: Initial registration fee is $10.00 for USAFI correspondence courses; this cost is borne by the student. There is no charge for enrollment after a successful completion.

Courses Available: There are more than 200 courses at pre-high school level, high school level, college level, and vocational-technical level available.

3/

ENLISTMENT CONTRACT - ARMED FORCES OF THE UNITED STATES

(Also to be used by AFEES in conjunction with induction processing as a means of providing data for manpower information reporting systems.)

Form Approved
Budget Bureau No. 22-R016

1. SERVICE NO	2. HIGHEST SCHOOL GRADE COMPLETED	3. RATE/GRADE	4. BRANCH/CLASS AND COMPONENT	5. LAST NAME - FIRST NAME - MIDDLE NAME
057445154	111	PVT	USMCRJ	KASPEREK RICHARD EDWIN

6. DATE OF ENL/INDUC	7. TERM OF ENLISTMENT/INDUC	8a. MARITAL STATUS	8b. NO DEPEND.	9. NAME & LOCATION OF ACTIVITY EFFECTING ENLISTMENT/REENLISTMENT/INDUCTION
75 Ø3 27	6 YEARS ☐ MINORITY		Ø	AFEES BFLO NY MCC MØØ

10. AFQT SCORE	11. ENLISTED/REENLISTED/INDUCTED	12. AUTHORITY FOR ENLISTMENT/REENLISTMENT/INDUC
3AØ37	☒ 1ST ENLIST ☐ REENL ☐ INDUCTION	

13. TERM OF ACDU (Reserve only)	14. ACTIVE/INACTIVE STATUS (Reserve only)	15. ACCEPTED AT
ØØ MONTHS	☐ RETAINED ON AD ☐ IMMED AD (within 24 hrs) ☒ INACTIVE DUTY	MCRS BFLO NY MCC 932

16. DATE MILOBLI INC	17. PMOS/AFS CODE/MOD	18. RELIGION	19. SSAN	20. CONTRACT DUTY LIMITATIONS
75 Ø3 27	9979	ROM CATH R	NONE	NONE

21. DATE OF BIRTH	22. CITIZENSHIP	23. PLACE OF BIRTH (City, state or country)
56 1Ø 29	☒ US ☐ NAT US ☐ COUNTRY (Specify) ØØ	LACKAWANNA NEW YORK

24. DATE OF TRANSFER	25. PHYSICAL PROFILE	26.	27. TRANSFER TO (Activity and location)	28.
RETAIN	111121 B	GSPMHEL Z4	RETAINED MCC 932	

29. DATE LAST DE/RAD	30. SVC FROM WHICH LAST DISCHARGED	31.	32.	33. TYPE OF LAST DISCHARGE	34. CD
			AICHØØ		

35. DATE OF RATE/GR	36. SELECTIVE SERVICE NO	37. RATE/GR APT/RAPT	38. SELECTIVE SERVICE LOCAL BD (Bd No., city & state)
75 Ø3 27	30 0089 56 1992	E1	LB 89 BUFFALO NY

39. BASD/ADBD	40. TOTAL ACTIVE FEDERAL SERVICE	41. HOME OF RECORD
	ØØ YEARS ØØ MONTHS ØØ DAYS	1883 ELECTRIC AVE. LACKAWANNA ERIE NEW YORK 14218

42. BPED/PEBD	43. TOTAL INACTIVE FEDERAL SERVICE	44. MENTAL TEST SCORES
75 Ø3 27	ØØ YEARS ØØ MONTHS ØØ DAYS	

45. SEX	46. RACE	47. DATA PROCESSING CODE
M	CØØ	

48. ELØ95 GM1Ø2 MM1Ø8 CLØ99 GTØ98
386427280 P75Ø9Ø5

49. PRIOR SERVICE

BRANCH & CLASS/ ARMED FORCE & COMPONENT	SERVICE NUMBER	DATE ENL. IND. APT. AND/OR OAD	DATE OF DISCHARGE OR RELEASE	GRADE/ RATE OR RANK	TYPE OF DISCHARGE	REASON FOR DISCHARGE	TIME LOST (No Days)

50. I know that if I secure my enlistment by means of any false statement, willful misrepresentation or concealment as to my qualifications for enlistment, I am liable to trial by court martial or discharge for fraudulent enlistment and that, if rejected because of any disqualification known and concealed by me, I will not be furnished return transportation to place of acceptance.

I am of the legal age to enlist. I have never deserted from and I am not a member of the Armed Forces of the United States, the US Coast Guard or any Reserve component thereof; I have never been discharged from the Armed Forces or any type of civilian employment in the United States or any other country on account of disability or through sentence of either civilian or military court unless so indicated by me in item 56, "Remarks" of this contract. I am not now drawing retired pay, a pension, disability allowance, or disability compensation from the government of the United States.

51. SECTION 5538 OF TITLE 10 OF THE UNITED STATES CODE is quoted: *"(a)* The Secretary of the Navy may extend enlistments in the Regular Navy and the Regular Marine Corps in time of war or in time of national emergency declared by the President for such period as he considers necessary in the public interest. Each member whose enlistment is extended under this section shall be discharged not later than six months after the end of the war or national emergency, unless he voluntarily extends his enlistment. *(b)* The substance of this section shall be included in the enlistment contract of each person enlisting in the Regular Navy or Regular Marine Corps."

52. SECTION 5540 OF TITLE 10 OF THE UNITED STATES CODE is quoted: *"(a)* The senior officer present afloat in foreign waters shall send to the United States by Government or other transportation as soon as possible each enlisted member of the naval service who is serving on a naval vessel, whose term of enlistment has expired, and who desires to return to the United States. However, when the senior officer present afloat considers it essential to the public interest, he may retain such a member on active duty until the vessel returns to the United States. *(b)* Each member retained under this section - (1) shall be discharged not later than 30 days after his arrival in the United States; and (2) except in time of war is entitled to an increase in basic pay of 25 percent. *(c)* The substance of this section shall be included in the enlistment contract of each person enlisting in the naval service."

53. I understand that, upon enlistment in a Reserve component of any of the Armed Forces of the United States, or upon transfer or assignment thereto, in time of war or National emergency declared by Congress, or when otherwise authorized by law, I may be ordered to active duty for the duration of the war or National emergency and for six months thereafter, or such other period as authorized by law.

54. I have had this contract fully explained to me. I understand it, and certify that no promise of any kind has been made to me concerning assignment to duty, geographical area, schooling, special programs, assignment of government quarters, or transportation of dependents except as indicated _____

EXHIBIT 7

BEST COPY AVAILABLE

55 I swear *(or affirm)* that the foregoing statements have been read to me, that my statements have been correctly recorded and are true in all respects and that I fully understand the conditions under which I am enlisting.

SIGNATURE OF WITNESS	SIGNATURE OF APPLICANT *(First Name - Middle Name - Last Name)*
Ronald H Ryan	[illegible]

56 REMARKS

57 OATH OF ENLISTMENT *(For service in Regular or Reserve Component of the Armed Forces except National Guard or Air National Guard)*

I, _____, do hereby acknowledge to have voluntarily enlisted under the conditions
(First Name - Middle Name - Last Name)

prescribed by law, this _____ day of _____, 19____ the _____ for a period of

_____ years unless sooner discharged by proper authority, and I do solemnly swear *(or affirm)* that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations, and the Uniform Code of Military Justice. So help me God.

SIGNATURE

58. OATH OF ENLISTMENT *(For service in National Guard or Air National Guard)*

I do hereby acknowledge to have voluntarily enlisted this _____ day of _____, 19____, in the *(Army) (Air)* National Guard of the State of _____ and as a Reserve of the *(Army) (Air Force)* with membership in the *(Army National Guard of the United States) (Air National Guard of the United States)* for a period of _____
(Years - Months - Days)

under the conditions prescribed by law, unless sooner discharged by proper authority.

I, _____, do solemnly swear *(or affirm)* that I will support and defend the Constitution of the United States and of the State of _____ against all enemies, foreign and domestic; that I will bear true faith and allegiance to them; and that I will obey the orders of the President of the United States and the Governor of _____ and the orders of the officers appointed over me, according to law, regulations, and the Uniform Code of Military Justice. So help me God.
(First Name - Middle Name - Last Name)

SIGNATURE

59 CONFIRMATION OF ENLISTMENT

The above oath was subscribed and duly sworn to before me this _____ day of _____, 19____.
To the best of my judgement and belief, enlistee fulfills all legal requirements, and in enlisting this applicant, I have strictly observed the regulations governing such enlistment. The above oath, as filled in, was read to the applicant prior to subscribing thereto.

TYPED NAME, GRADE/RANK, AND ORGANIZATION OF ENLISTING OFFICER	SIGNATURE OF ENLISTING OFFICER

DD FORM 4 WS, 1 APR 68 REPLACES DD FORM 4 WS, 1 AUG 66, WHICH IS OBSOLETE S/N 0102-000-1101

ENLISTMENT CONTRACT - ARMED FORCES OF THE UNITED STATES

(Also to be used by AFEES in conjunction with induction processing as a means of providing data for manpower information reporting systems)

Form Approved
Budget Bureau No. 22-R0016

1. SERVICE NO./SSAN	2. HIGHEST SCHOOL GRADE COMPLETED	3. RATE/GRADE	4. BRANCH, CLASS AND COMPONENT	5. LAST NAME - FIRST NAME - MIDDLE NAME
057445154	111	PVT	USMCRJ	KASPEREK RICHARD EDWIN

6. DATE OF ENL/INDUC	7. TERM OF ENLISTMENT/INDUC	8a. MARITAL STATUS	8b. NO DEPEND	9. NAME & LOCATION OF ACTIVITY EFFECTING ENLISTMENT, REENLISTMENT, INDUCTION
75 03 26	4 YEARS ☐ MINORITY		0	AFEES BFLO NY MCC M00

10. AFQT SCORE	11. ENLISTED/REENLISTED/INDUCTED	12. AUTHORITY FOR ENLISTMENT/REENLISTMENT/INDUC
3A037	☒ 1ST ENLIST ☐ REENL ☐ INDUCTION	

13. TERMS OF ACDU (Reserve only)	14. ACTIVE INACTIVE STATUS (Reserve only)	15. ACCEPTED AT
00 MONTHS	☐ RETAINED ON AD ☐ IMMED AD (within 24 hrs) ☒ INACTIVE DUTY	MCRS BFLO NY MCC 932

16. DATE MIL OBLI INC	17. PMOS/AFS CODE/MOD	18. RELIGION	19.	20. CONTRACT DUTY LIMITATIONS
75 03 26	9979	ROM CATH R	NONE	NONE

21. DATE OF BIRTH	22. CITIZENSHIP			23. PLACE OF BIRTH (City, state or country)
			COUNTRY (Specify)	
56 10 29	☒ US ☐ NAT US	☐	00	LACKAWANNA NEW YORK

24. DATE OF TRANSFER	25. PHYSICAL PROFILE	26.	27. TRANSFER TO (Activity and location)	28
RETAIN	111121B	GSPMHELZ4	RETAINED MCC 932	

29. DATE LAST DC/RAD	30. SVC FROM WHICH LAST DISCHARGED	31.	32.	33. TYPE OF LAST DISCHARGE	34.
			ALCH00		CD

35. DATE OF RATE/GR	36. SELECTIVE SERVICE NO.	37. RATE/GR APT/RAPT	38. SELECTIVE SERVICE LOCAL BD (Bd No., city & state)
75 03 26	30 0089 56 1992	E1	LB 89 BUFFALO NEW YORK

39. BASD ADBD	40. TOTAL ACTIVE FEDERAL SERVICE	41. HOME OF RECORD
	00 YEARS 00 MONTHS 00 DAYS	1883 ELECTRIC AVE LACKAWANNA ERIE NEW YORK 14218

42. BP ED PEBD	43. TOTAL INACTIVE FEDERAL SERVICE	44. MENTAL TEST SCORES
75 03 26	00 YEARS 00 MONTHS 00 DAYS	

45. SEX	46. RACE	47. DATA PROCESSING CODE
M	C00	

48. EL 095 GM 102 MM 108 CL 099 GT 098
386 42 72 80 P750905

49. PRIOR SERVICE

BRANCH & CLASS/ ARMED FORCE & COMPONENT	SERVICE NUMBER/ SSAN	DATE ENL. IND. APT. AND/OR OAD	DATE OF DISCHARGE OR RELEASE	GRADE/ RATE OR RANK	TYPE OF DISCHARGE	REASON FOR DISCHARGE	TIME LOST (No. Days)

50. I know that if I secure my enlistment by means of any false statement, willful misrepresentation or concealment as to my qualifications for enlistment, I am liable to trial by court martial or discharge for fraudulent enlistment and that, if rejected because of any disqualification known and concealed by me, I will not be furnished return transportation to place of acceptance.

I am of the legal age to enlist. I have never deserted from and I am not a member of the Armed Forces of the United States, the US Coast Guard or any Reserve component thereof. I have never been discharged from the Armed Forces or any type of civilian employment in the United States or any other country on account of disability or through sentence of either civilian or military court unless so indicated by me in item 56, "Remarks" of this contract. I am not now drawing retired pay, a pension, disability allowance, or disability compensation from the government of the United States.

51. SECTION 5538 OF TITLE 10 OF THE UNITED STATES CODE is quoted: "(a) The Secretary of the Navy may extend enlistments in the Regular Navy and the Regular Marine Corps in time of war or in time of national emergency declared by the President for such period as he considers necessary in the public interest. Each member whose enlistment is extended under this section shall be discharged not later than six months after the end of the war or national emergency, unless he voluntarily extends his enlistment. (b) The substance of this section shall be included in the enlistment contract of each person enlisting in the Regular Navy or Regular Marine Corps."

52. SECTION 5540 OF TITLE 10 OF THE UNITED STATES CODE is quoted: "(a) The senior officer present afloat in foreign waters shall send to the United States by Government or other transportation as soon as possible each enlisted member of the naval service who is serving on a naval vessel, whose term of enlistment has expired, and who desires to return to the United States. However, when the senior officer present afloat considers it essential to the public interest, he may retain such a member on active duty until the vessel returns to the United States. (b) Each member retained under this section — (1) shall be discharged not later than 30 days after his arrival in the United States, and (2) except in time of war is entitled to an increase in basic pay of 25 percent. (c) The substance of this section shall be included in the enlistment contract of each person enlisting in the naval service."

53. I understand that upon enlistment in a Reserve Component of the Armed Forces of the United States, or upon transfer or assignment thereto, I may be ordered to active duty without my consent — for the duration of a war or national emergency declared by Congress and for six months thereafter, or for a period of 24 consecutive months during a period of national emergency declared by the President, or under any other conditions and for such period of time as are presently or hereafter authorized by law. I further understand, as a statutorily obligated member of the Ready Reserve that if I am not assigned to, or participating satisfactorily in, a unit of the Ready Reserve; and have not served on active duty for a total of 24 months, I may be ordered to active duty without my consent, by order of the President, until my total service on active duty equals 24 months, the terms of my enlistment notwithstanding.

DD FORM 4, 1 FEB 70
0102-000 1002

REPLACES DD FORM 4, 1 APR 68, WHICH IS OBSOLETE.

EXHIBIT 9

54. I have had this contract fully explained to me. I understand it, and certify that no promise of any kind has been made to me concerning assignment to duty, geographical area, schooling, special programs, assignment of government quarters, or transportation of dependents except as indicated. Strawn Sub Program

55. I swear (or affirm) that the foregoing statements have been read to me, that my statements have been correctly recorded and are true in all respects and that I fully understand the conditions under which I am enlisting.

SIGNATURE OF WITNESS	SIGNATURE OF APPLICANT (First Name - Middle Name - Last Name)
T P Carras	Richard Edwin Kasperek

56. REMARKS

750326 - 9Z475

57. OATH OF ENLISTMENT (For service in Regular or Reserve Component of the Armed Forces except National Guard or Air National Guard)

I, RICHARD EDWIN KASPEREK (First Name - Middle Name - Last Name), do hereby acknowledge to have voluntarily enlisted under the conditions prescribed by law, this 26TH day of MARCH, 19 75, in the USMCRJ for a period of _____ years unless sooner discharged by proper authority; and I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations, and the Uniform Code of Military Justice. So help me God.

SIGNATURE

Richard Edwin Kasperek

58 OATH OF ENLISTMENT (For service in National Guard or Air National Guard)

I do hereby acknowledge to have voluntarily enlisted this _____ day of _____, 19____ in the (Army) (Air) National Guard of the State of _____ and as a Reserve of the (Army) (Air Force) with membership in the (Army National Guard of the United States) (Air National Guard of the United States) for a period of _____ (Years - Months - Days) under the conditions prescribed by law, unless sooner discharged by proper authority.

I, _____ (First Name - Middle Name - Last Name), do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and of the State of _____ against all enemies, foreign and domestic; that I will bear true faith and allegiance to them; and that I will obey the orders of the President of the United States and the Governor of _____ and the orders of the officers appointed over me, according to law, regulations, and the Uniform Code of Military Justice. So help me God.

SIGNATURE

59 CONFIRMATION OF ENLISTMENT

The above oath was subscribed and duly sworn to before me this 26TH day of MARCH, 19 75. To the best of my judgement and belief, enlistee fulfills all legal requirements, and in enlisting this applicant, I have strictly observed the regulations governing such enlistment. The above oath, as filled in, was read to the applicant prior to subscribing thereto.

TYPED NAME, GRADE, RANK, AND ORGANIZATION OF ENLISTING OFFICER	SIGNATURE OF ENLISTING OFFICER
T P CARRAS CAPT USMC AOIC USMC RS BUFFALO N Y 14202	T P Carras

35

ENLISTMENT CONTRACT - ARMED FORCES OF THE UNITED STATES

(Also to be used by AFEES in conjunction with induction processing as a means of providing data for manpower information reporting systems.)

Form Approved
Budget Bureau No. 22-R0016

1. SERVICE NO./SSAN	2. HIGHEST SCHOOL GRADE COMPLETED	3. RATE/GRADE	4. BRANCH/CLASS AND COMPONENT	5. LAST NAME - FIRST NAME - MIDDLE NAME
057445154	11	PVT	USMC00	KASPEREK RICHARD EDWIN

6. DATE OF ENL/INDUC	7. TERM OF ENLISTMENT/INDUC	8a. MARITAL STATUS	8b. NO. DEPEND	9. NAME & LOCATION OF ACTIVITY EFFECTING ENLISTMENT/ REENLISTMENT/INDUCTION
75 09 05	4 YEARS ☐ MINORITY		0	AFEES, BUFFALO NY 000

10. AFQT SCORE	11. ENLISTED/REENLISTED/INDUCTED	12. AUTHORITY FOR ENLISTMENT/REENLISTMENT/INDUC
3A037	☒ 1ST ENLIST ☐ REENL. ☐ INDUCTION	

13. TERM OF ACDU (Reserve only)	14. ACTIVE/INACTIVE STATUS (Reserve only)	15. ACCEPTED AT
00 MONTHS	☐ RETAINED ON AD ☐ IMMED AD (within 24 hrs) ☐ INACTIVE DUTY	MCRS BFLO NY MCC 932

16. DATE MIL OBLI INC	17. PMOS/AFS CODE/MOD	18. RELIGION	19.	20. CONTRACT DUTY LIMITATIONS
75 03 26	9979	ROM CATH R	NONE	NONE

21. DATE OF BIRTH	22. CITIZENSHIP	23. PLACE OF BIRTH (City, state or country)
56 10 29	☒ US ☐ NAT US ☐ COUNTRY (Specify) 00	LACKAWANNA NY

24. DATE OF TRANSFER	25. PHYSICAL PROFILE	26.	27. TRANSFER TO (Activity and location)	28.
75 09 05	1111218	GSPMHEL Z4	MCRD PISC MCC 016	

29. DATE LAST DC/RAD	30. SVC FROM WHICH LAST DISCHARGED	31.	32.	33. TYPE OF LAST DISCHARGE	34.
			ALCH00		CD

35. DATE OF RATE/GR	36. SELECTIVE SERVICE NO.	37. RATE/GRAPT/RAPT	38. SELECTIVE SERVICE LOCAL BD (Bd No., city & state)
75 09 05	340889561992	E1	89 BUFFALO NY

39. BASD/ADBD	40. TOTAL ACTIVE FEDERAL SERVICE	41. HOME OF RECORD
75 09 05	00 YEARS 00 MONTHS 00 DAYS	1421 1883 ELECTRIC AVE LACKAWANNA NY

42. BP ED/PEBD	43. TOTAL INACTIVE FEDERAL SERVICE	44. MENTAL TEST SCORES
75 03 26	00 YEARS 15 MONTHS 00 DAYS	

45. SEX	46. RACE	47. DATA PROCESSING CORE
M	C00	ERIE *NY*14218*A*A*R*00*67*145*112*068*T*0*1*4 75032G*C304*A*248

48. CO00FA500EL050F000GM102MM108CL099ST00GT098SC000
38642728000*S*750905

49. PRIOR SERVICE

BRANCH &CLASS/ ARMED FORCE & COMPONENT	SERVICE NUMBER/ SSAN	DATE ENL. IND. APT. AND/OR OAD	DATE OF DISCHARGE OR RELEASE	GRADE/ RATE OR RANK	TYPE OF DISCHARGE	REASON FOR DISCHARGE	TIME LOST (No. Days)
USMCRJ	057445154	750326	750904				00

50. I know that if I secure my enlistment by means of any false statement, willful misrepresentation or concealment as to my qualifications for enlistment, I am liable to trial by court martial or discharge for fraudulent enlistment and that, if rejected because of any disqualification known and concealed by me, I will not be furnished return transportation to place of acceptance.

I am of the legal age to enlist. I have never deserted from and I am not a member of the Armed Forces of the United States, the US Coast Guard or any Reserve component thereof; I have never been discharged from the Armed Forces or any type of civilian employment in the United States or any other country on account of disability or through sentence of either civilian or military court unless so indicated by me in item 56, "Remarks" of this contract. I am not now drawing retired pay, a pension, disability allowance, or disability compensation from the government of the United States.

51. SECTION 5538 OF TITLE 10 OF THE UNITED STATES CODE is quoted: "(a) The Secretary of the Navy may extend enlistments in the Regular Navy and the Regular Marine Corps in time of war or in time of national emergency declared by the President for such period as he considers necessary in the public interest. Each member whose enlistment is extended under this section shall be discharged not later than six months after the end of the war or national emergency, unless he voluntarily extends his enlistment. (b) The substance of this section shall be included in the enlistment contract of each person enlisting in the Regular Navy or Regular Marine Corps."

52. SECTION 5540 OF TITLE 10 OF THE UNITED STATES CODE is quoted: "(a) The senior officer present afloat in foreign waters shall send to the United States by Government or other transportation as soon as possible each enlisted member of the naval service who is serving on a naval vessel, whose term of enlistment has expired, and who desires to return to the United States. However, when the senior officer present afloat considers it essential to the public interest, he may retain such a member on active duty until the vessel returns to the United States. (b) Each member retained under this section — (1) shall be discharged not later than 30 days after his arrival in the United States; and (2) except in time of war is entitled to an increase in basic pay of 25 percent. (c) The substance of this section shall be included in the enlistment contract of each person enlisting in the naval service."

53. I understand that, upon enlistment in a Reserve Component of the Armed Forces of the United States, or upon transfer or assignment thereto, I may be ordered to active duty without my consent — for the duration of a war or national emergency declared by Congress and for six months thereafter, or for a period of 24 consecutive months during a period of national emergency declared by the President, or under any other conditions and for such period of time as are presently or hereafter authorized by law. I further understand, as a statutorily obligated member of the Ready Reserve that if I am not assigned to, or participating satisfactorily in, a unit of the Ready Reserve; and have not served on active duty for a total of 24 months, I may be ordered to active duty without my consent, by order of the President, until my total service on active duty equals 24 months, the terms of my enlistment notwithstanding.

DD FORM 4, 1 FEB 70 REPLACES DD FORM 4, 1 APR 68, WHICH IS OBSOLETE.

EXHIBIT 10

54. I have had this contract fully explained to me, I understand it, and certify that no promise of any kind has been made to me concerning assignment to duty, geographical area, schooling, special programs, assignment of government quarters, or transportation of dependents except as indicated

55. I swear *(or affirm)* that the foregoing statements have been read to me, that my statements have been correctly recorded and are true in all respects and that I fully understand the conditions under which I am enlisting.

SIGNATURE OF WITNESS	SIGNATURE OF APPLICANT *(First Name - Middle Name - Last Name)*
[illegible] SSGT	X

56. REMARKS

754326 9Z475

57. OATH OF ENLISTMENT *(For service in Regular or Reserve Component of the Armed Forces except National Guard or Air National Guard)*

I, RICHARD EDWIN KASPEREK, do hereby acknowledge to have voluntarily enlisted under the conditions
(First Name - Middle Name - Last Name)

prescribed by law, this 5TH day of SEPTEMBER, 19 75, in the USMC for a period of _____ years unless sooner discharged by proper authority; and I do solemnly swear *(or affirm)* that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations, and the Uniform Code of Military Justice. So help me God.

SIGNATURE

X

58. OATH OF ENLISTMENT *(For service in National Guard or Air National Guard)*

I do hereby acknowledge to have voluntarily enlisted this _____ day of _____, 19_____, in the *(Army) (Air)* National Guard of the State of _____ and as a Reserve of the *(Army) (Air Force)* with membership in the *(Army National Guard of the United States) (Air National Guard of the United States)* for a period of _____
(Years - Months - Days)

under the conditions prescribed by law, unless sooner discharged by proper authority.

I, _____, do solemnly swear *(or affirm)* that I will support and defend the Constitution of the United States and of the State of _____ against all enemies, foreign and domestic; that I will bear true faith and allegiance to them; and that I will obey the orders of the President of the United States and the Governor of _____ and the orders of the officers appointed over me, according to law, regulations, and the Uniform Code of Military Justice. So help me God.
(First Name - Middle Name - Last Name)

SIGNATURE

59. CONFIRMATION OF ENLISTMENT

The above oath was subscribed and duly sworn to before me this 5TH day of SEPTEMBER, 19 75

To the best of my judgement and belief, enlistee fulfills all legal requirements, and in enlisting this applicant, I have strictly observed the regulations governing such enlistment. The above oath, as filled in, was read to the applicant prior to subscribing thereto.

TYPED NAME, GRADE/RANK, AND ORGANIZATION OF ENLISTING OFFICER	SIGNATURE OF ENLISTING OFFICER
V E ONEILL MAJOR USMC OIC MCRS BFLO NY 14202	[signature]

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RICHARD E. KASPEREK
1883 Electric Avenue
Lackawanna, New York

CIV- 76 -222

Petioner/Plaintiff

vs.

DONALD RUMSFELD, SECRETARY OF DEFENSE

and

COMMANDANT, UNITED STATES MARINE CORPS

and

CAPTAIN E.D. MILLER
INSPECTOR-INSTRUCTOR,
Company D
First Battalion
25th Marines
4th Marine Division
3 Porter Avenue
Buffalo, New York 14201

Respondents/Defendants

PETITON FOR HABEAS CORPUS/COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTION

Petitioner/Plaintiff, by his attorneys, ROBERT C. MACEK and PHILIP B. ABRAMOWITZ, respectfully alleges:

(1) This is an action for a preliminary and permanent injunction and declaratory relief, and/or for a Writ of Habeas Corpus. Petitioner/Plaintiff seeks and Order declaring that he is not lawfully a member of the United States Marine Corps, prohibiting Respondents from removing him from the Western District of New York, and ordering Respondents to discharge him

from the United States Marine Corps, on the ground that he was fraudulently induced to enlist in the United States Marine Corps, and upon the ground of a breach of his enlistment contract.

JURISDICTION

(2) This Court has habeas corpus jurisdiction under 28 U.S.C.§2241. The jurisdiction of this Court is also invoked under 28 U.S.C. §1361, in that the Defendant Federal Agents owe the Plaintiff the duty to discharge him from the United States Marine Corps, and under 28 U.S.C. §1331, in that the cause of action arises under the Constitution and Laws of the United States, and the amount in controversy exceeds $10,000, exclusive of interest and costs.

PARTIES

(3) Petitioner/Plaintiff, RICHARD E. KASPEREK, is a Private, United States Marine Corps, whose whom address is 1883 Electric Avenue, Lackawanna, New York, and whose military ID number is 057-44-5154.

(4) Respondents DONALD RUMSFELD, Secretary of Defense and Commandent United States Marine Corps, are the ultimate custodians of Petitioner/Plaintiff.

(5) Respondent/Defendant CAPTAIN E.D. MILLER is the Officer in charge of the local Marine Corps outpost in Buffalo, New York, and the person to whom Petitioner has been reporting for orders while on emergency leave since May 5, 1976. As such, he is Petitioner's immediate custodian.

CLAIM FOR RELIEF

(6) In September, 1975, Petitioner Kasperek discussed the possibility of enlisting in the United States Marine Corps with Sgt. Ronald

Kopahan, Marine Recruiter in Hamburg, New York. After one such discussion, Petitioner indicated to Sgt. Kopahan that he was interested in the "bulk fuel" Military Occupational Specialty (MOS).

(7) Also in September 1975, Petitioner took aptitude tests, arranged by Sgt. Kopahan, to determine his eligibility for the "bulk fuel" MOS. Sgt. Kopahan thereafter assured Petitioner that his test scores made him fully eligible for this MOS.

(8) Sgt. Kopahan also assured Petitioner that he could guarantee Petitioner that he could be assigned this MOS, assuming that he passed the relevant training courses and had no disciplinary problem, and Sgt. Kopahan did so guarantee Petitioner.

(9) After further discussions in early 1975, on March 25, 1975, Petitioner telephoned Sgt. Kopahan and informed him that he was interested in enlisting under the conditions that Petitioner and Sgt. Kopahan had discussed previously. Sgt. Kopahan assured Petitioner that the prior assurances regarding the "bulk fuel" MOS were still in effect. Petitioner and Sgt. Kopahan agreed to meet at Sgt. Kopahan's office the following day to sign the enlistment papers.

(10) On March 26, 1975, Petitioner appeared to sign the enlistment contract. When the paper regarding his military occupational specialty assignment was placed before him, Petitioner pointed out that the document had typed on to it "Mechanical/Electrical" Subprogram, and Petitioner objected to this as contrary to their understanding.

(11) In response, Sgt. Kopahan assured Petitioner that the "bulk fuel" MOS was part of the Mechanical/Electrical Subprogram, and that Petitioner would get the "bulk fuel" MOS he wanted.

D (12) The aforesaid assurances were false, fraudulent and misleading, and made for the purpose of inducing Petitioner to enlist in the United States Marine Corps.

D (13) Petitioner relied upon the aforesaid assurances when he signed the enlistment papers.

D (14) The "bulk fuel" MOS which Petitioner was guaranteed by Sgt. Kopahan is not within the "Mechanical/Electrical" Subgroup.

A (15) Petitioner entered upon active duty on September 5, 1975, and has not been offered placement in the "bulk fuel" MOS but instead has been assigned to a Motor Transport Platoon at Camp LeJeune, North Carolina, where he services and drives trucks.

D (16) The aforesaid assignment constitutes a breach of contract.

D (17) By reason of the aforesaid fraudulent inducement to enlist, and by reason of the aforesaid breach of contract, Petitioner is entitled to rescind the contract of enlistment, and hereby elects to rescind and ask this Court to order his release from control of the Respondents.

D (18) Petitioner has no adequate administrative remedies. Petitioner has no adequate remedy at law.

ALLEGATIONS REGARDING CUSTODY

(19) On April 25, 1976, while at home during his father's final illness, Petitioner was arrested on a charge of possession of a small amount of marijuana by police of the Town of Hamburg.

(20) Petitioner, although able to make the bail set on him on the marijuana charge, was held in custody in the Erie County Jail for ten (10) days by reason of a Marine Corps AWOL detainer placed upon him by Respondents.

(21) Said detainer was temporarily lifted, and Petitioner was released from jail, on May 5, 1976, following his father's death earlier that day, and Petitioner's status was then adjusted to "Emergency Leave" status.

(22) The lifting of said detainer and the readjustment of status, was arranged by Respondent CAPTAIN E.D.MILLER at the request of Petitioner's counsel.

(23) Petitioner was required by CAPTAIN MILLER to report to him at 8:00 a.m., May 11, 1976. Petitioner reported at that time and was then ordered to report agair to CAPTAIN MILLER on Friday, May 14, 1976, after Petitioner's first scheduled Court appearance in the Town of Hamburg.

(24) At the request of Petitioner's counsel, CAPTAIN MILLER extended that time for reporting to him until 3:00 p.m. Monday, May 17, 1976.

(25) Respondent, CAPTAIN E.D. MILLER, possesses the authority, and has indicated his willingness to use that authority, to seize Petitioner with physical force, to remove him from the district under Marine guard, or to have him returned to the Erie County Holding Center.

(26) Upon information and belief, Respondent CAPTAIN MILLER, will take one of the aforesaid actions upon Petitioner's failure to report to CAPTAIN MILLER by 3:00 p.m. May 17, 1976.

(27) Upon information and belief, Respondent CAPTAIN MILLER possesses the authority, and has indicated his intention to use said authority to order Petitioner to report back to Camp LeJeune, North Carolina, and have him taken there under Marine guard, upon Petitioner's reporting to CAPTAIN MILLER on May 17, 1976.

(28) Unless Respondents are immediately enjoined and restrained from acting against Petitioner, Petitioner will suffer immediate and irreparable injury.

WHEREFORE, your Petitioner prays:

(1) That this Court issue a temporary restraining order prohibiting Respondents from removing Petitioner from the Western District of New York pending a determination of this action.

(2) That this Court set out in the order a returned date of three days.

(3) That this Court set the matter down for hearing within ten days after the return.

(4) That the Court herein and determine the matter, and declare that Petitioner is not lawfully a member of the United States Marine Corps.

(5) That this Court, upon final hearing, order that Respondents forthwith release Petitioner from custody.

(6) That this Court grant such other and further relief as is just and proper in the premises.

Robert C. Macek
Philip B. Abramowitz
Attorneys for Petitioner/Plaintiff
Office and Post Office Address
556 Franklin Street
Buffalo, New York 14202
Tel.No. (716) 883-5000

STATE OF NEW YORK)
COUNTY OF ERIE : SS
CITY OF BUFFALO)

RICHARD E. KASPEREK, being duly sworn, deposes and says that deponent is the Petitioner/Plaintiff in this action that Deponent has read the fore-

going Petition and knows the contents thereof; that the same is true to Deponent's own knowledge except that as to the matters therein stated to be alleged on information and belief, and as to those matters Deponent believes it to be true.

Richard E. Kasperek

SWORN to before me this
17th day of May, 1976.

ROBERT C. MACEK #4617096
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 30, 19__

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RICHARD E. KASPEREK

Petitioner/Plaintiff

vs.

AFFIDAVIT

DONALD RUMSFELD, et al.

Respondents/Defendants

STATE OF NEW YORK)
COUNTY OF ERIE) ss.:
CITY OF BUFFALO)

ROBERT C. MACEK, being duly sworn, deposes and says:

1. I am an attorney duly licensed to practice before this court, and I am counsel for petitioner/plaintiff herein. I submit this affidavit in response to respondents'/defendants' suggestion that this court has no jurisdiction of this case.

2. Your deponent, together with Attorney Philip B.Abramowitz, was first retained by petitioner when petitioner was confined to the Erie County Holding Center. Although petitioner was able to make bail on the charge of possession of a small amount of marijuana on which he had been originally arrested, he was unable to secure release from jail because of a Marine Corps AWOL detainer that was placed upon him.

3. Your deponent was informed by petitioner and by members of his family that petitioner's father was confined to Our Lady of Victory Hospital and was dying of cancer, having only a short time to live. Your deponent confirmed that fact with the father's doctor, Edwin Tomaka, M.D., of Lackawanna, New York.

4. On May 5th, 1976, before this information could be confirmed in writing and forwarded with a request for the granting of emergency leave status, petitioner's father died.

5. On that date, your deponent spoke twice with respondent/defendant Captain Miller. In the first of these conversations, your deponent informed Captain Miller that petitioner's father had died, suggested that confirmation of this could be made by telephone call to Our Lady of Victory Hospital and requested that the detainer upon petitioner be lifted. In the later of these two conversations, Captain Miller informed me that the detainer had in fact been lifted, that petitioner would be on "emergency leave" status, and that he had sent a Marine to the Erie County Holding Center with the necessary papers. Captain Miller also informed me that petitioner would be required to report to him at 8 A.M. May 11th, 1976. Captain Miller stated to me that,at that time, he would decide whether petitioner would be allowed to remain free pending the resolution of the marijuana charge, or whether petitioner would spend the time before his next court appearance in the Town of Hamburg in jail.

6. As stated in Paragraph 23 of the Verified Petition/Complaint in this case, Captain Miller ordered him to report again to him on Friday May 14th, 1976, after the time of petitioner's first scheduled court appearance in the Town of Hamburg.

7. Your deponent telephoned Captain Miller on Friday, May 14th, 1976 and informed him that the court appearance in Hamburg had been postponed. Captain Miller stated to me that petitioner would be still required to report to him that afternoon, and that he would be taken back to Camp Le Jeune, with no assurance that the

petitioner would be allowed to return to resolve the marijuana charges pending against him. I asked Captain Miller whether anything could be done to extend this, in view of the pending criminal charges (for which bail would be forfeited, and perhaps a warrant issued, if petitioner failed to answer them),and in view of the fact that the boy was an only child, and that his mother was doing rather badly under the shock of her husband's death. After a short conversation, Captain Miller changed the reporting date and told me that petitioner would be required to report to him between 12:00 and 3:00 P.M. the following Monday, May 17th, 1976.

8. I again called Captain Miller on Monday morning, May 17th, 1976. During that conversation, I asked Captain Miller what would happen when petitioner reported to him that afternoon. Captain Miller stated that he would at that time decide whether to order petitioner to travel to Camp Le Jeune, or to have him escorted back to Le Jeune under guard. I also asked Captain Miller what would happen if petitioner did not report to him that afternoon, and Captain Miller stated that he would issue a warrant for petitioner's arrest.

9. This action was filed that afternoon, although your deponent and Assistant U.S. Attorneys Wagner and Mellenger were unable to reach Captain Miller that afternoon to notify him of the restraining order signed by the court. Your deponent called Captain Miller the next morning, to notify him that said order had been issued. Captain Miller stated to me at that time that he had already sent his Marines out looking for petitioner.

10. By reason of the above it is submitted that petitioner is in custody in the Western District of New York, and that his custodian, for purposes of 28 U.S.C. Sec. 2241, is Captain E. D. Miller. In the

alternative, it is submitted that the above activities of Captain Miller, together with the actions of Recruitor Sergeant Kopahan, are sufficient contacts with this jurisdiction to afford this Court personal jurisdiction over respondents' Rumsfeld and Comondant, United States Marine Corps.

11. Your deponent wishes also to inform the court that petitioner Richard Kasperek has, in counsel's opinion, a meritorious claim for discharge from the Marine Corps on the grounds of hardship, which claim will be formally submitted to the Marine Corps within a few days. The claim is based upon the following facts, which have been confirmed by your deponent's investigation: Petitioner's father died on May 5, 1976, after having been diagnosed as suffering from cancer a few months previously; that petitioner's mother has suffered considerably in her health, both physical and mental, from the strain of her husband's last illness and death, and is under a doctor's care; that she is without substantial financial resources, and thus will be financially dependent upon others, including her son, and upon such of her own employment that she may be able to hold; that her psychological state at this time does not permit her to remain alone in her home at night without great panic and agitation; that petitioner Ricahrd Kasperek is her only child; that although there are other relatives in the Western New York area, none is able to provide as much held and support, both financial and emotional, as is necessary. This information is provided the court not for the court's consideration of whether petitioner should be discharged on these grounds, but rather solely on the issues of whether irreparable harm would come to plaintiff if this Court does not continue its preliminary relief, and whether other adequate remedies exist as an alternative to this court's

MARTOCHE, COLLESANO, ABRAMOWITZ & GELLER
Attorneys at Law • 78 Niagara Street • Buffalo, New York 14202 • (716) 856-8712

exercise of its mandamus and habeas corpus jurisdiction. Petitioner respectfully submits that these facts, together with the fact that petitioner would likely remain in the custody of respondants (which petitioner herein claims is without lawful basis) for a substantially longer period of time, establish that irreparable harm would come to plaintiff if this court does not act, and that no other adequate remedy exists.

_____

Sworn to before me this 1st day
of JUNE, 1976.

_____

ABSENTEE WANTED BY THE ARMED FORCES

1. DATE FORM PREPARED: 9 July 1976

2. TO: DISTRIBUTION LIST (See item 42)

3. Not Available (PHOTOGRAPH IF AVAILABLE)

4. NAME OF ABSENTEE (Last name - First name - Middle name): KASPEREK, Richard Edwin

5. GRADE OR RATING	6. SOCIAL SECURITY NUMBER	7. SERVICE & SERVICE NO.	8. FINGERPRINTS AVAILABLE ON ENLISTMENT PAPERS
Pvt	574 45 15 54	USMC	☐ YES ☐ NO

9. DATE AND PLACE OF CURRENT ENLISTMENT: 5Sep75, MCRS BFLO, NY 14202

10. FINGERPRINT CLASSIFICATION:

11. DATE AND PLACE OF ENTRY INTO CURRENT ACTIVE SERVICE (Induction/Active duty from Reserves, etc.): AFEES, Buffalo, New York 14202

12. ORGANIZATION OR ACTIVITY AND PLACE FROM WHICH ABSENT (If AWOL/UA in transit, list old and new unit in Item 37 "Remarks"): H&SVCCo, 2dTkBn, 2dMarDiv(Rein), FMF, CAMLEJ 28542

13. DATE AND HOUR OF ABSENCE	14. DATE DROPPED FROM ROLLS AS A DESERTER
760511, 0001	760621

15. CIVILIAN OCCUPATION	17. USE IN CASE OF ESCAPE OF SENTENCED PRISONER ONLY
None	Date ☐ Dishonorable ☐ Bad Conduct Discharge
16. MILITARY OCCUPATION 3500: Basic Motor Transport Man	☐ Executed ☐ Suspended _____ Remaining confinement to be served _____

18. DATE OF BIRTH	19. PLACE OF BIRTH	20. CITIZENSHIP	21. RACE	22. COLOR EYES
561029	Lackawanna, NY	US	Cauc	Blue

23. COMPLEXION	24. POSTURE	25. BUILD	26. HEIGHT	27. WEIGHT	28. COLOR HAIR
Ruddy	Erect	Medium	68"	150	Blond

29. MARITAL STATUS: ☐ MARRIED ☒ SINGLE ☐ SEPARATED ☐ DIVORCED

30. OTHER IDENTIFYING FEATURES (Scars, tattoos, facial characteristics, etc.): None

31. NAME, ADDRESS AND RELATIONSHIP OF NEAREST RELATIVE: Mr&Mrs Edwin R KASPEREK (Parents) 1883 Electric Ave, Lackawanna, NY 14218

32. MEMBER'S CURRENT RESIDENCE ADDRESS: Same as above

OTHER RELATIVES AND PERSONS KNOWN BY ABSENTEE

33. NAME AND RELATIONSHIP	34. ADDRESS
L. S. MOTTLER	945 Hutson Ave Rochester, NY 14607

CIVILIAN EMPLOYER

35. NAME	36. ADDRESS
None	

42. DISTRIBUTION MADE OF THIS FORM (Include ZIP Code, and use reverse if necessary)
CMC (Code MPS-50)
SRB
PC&AO
PMO, CAMLEJ
Edwin R. KASPEREK
State Police *
Shief of Police *
County Sheriff*
C/O Postmaster*
1883 Electric Ave
Lackawanna, NY 14218
State Police*
Chief of Police *
County Sheriff*
C/O Postmaster
945 Hutson Ave
Rochester, NY 14607
(SEE REVERSE)

37. REMARKS (List peculiar habits and traits of character; unusual mannerisms and speech; peculiarities in appearance, clothing worn, aliases, or any other information which may aid in identification)(Use reverse if necessary)

38. THE INDIVIDUAL DESCRIBED ABOVE IS ABSENT WITHOUT LEAVE AND HIS RETURN TO MILITARY CONTROL IS DESIRED. IF APPREHENDED BY YOU, EITHER DELIVER HIM TO, OR NOTIFY, THE NEAREST ARMY, NAVY, AIR FORCE, MARINE CORPS, OR COAST GUARD INSTALLATION BY THE MOST RAPID MEANS AVAILABLE THAT HE IS IN YOUR CUSTODY. FOR INFORMATION CONCERNING PAYMENT OF REWARD OR EXPENSES, SEE THE REVERSE OF THIS FORM. ADDRESS COMMUNICATIONS TO THE COMMANDING OFFICER (never to a named individual) OF THE APPROPRIATE ARMY, NAVY, AIR FORCE, MARINE CORPS OR COAST GUARD INSTALLATION.

39. STATION	40. TYPED NAME, GRADE, TITLE & ORGANIZATION	41. SIGNATURE (All copies to be signed)
2dMarDiv(REin), FMF	D.L.BARTEK, 1stLt, Exec2O, [illegible]	D L Bartek

DD FORM 1 FEB 68 553 REPLACES EDITION OF 1 DEC 63, WHICH IS OBSOLETE.

S/N-0102-005-8601

BEST COPY AVAILABLE

37. REMARKS *(Continued)*

42. DISTRIBUTION *(Continued)*

Director
1st MarCorDist
605 Stewart Avenue
Garden City, Long Island
New York 11533

Commandant
3d Naval District
Flushing & Washington Avenues
Brooklyn, New York 11251

INSTRUCTIONS

1. DISTRIBUTION. Distribution will be in accordance with AR 630-10; AFR 35-73; Art C-7803 BuPers Manual; Marine Corps Personnel Manual, Par. 15070; or Article 8-A-5, Personnel Manual, U. S. Coast Guard.

2. AUTHORITY TO APPREHEND. Any civil officer having authority to arrest offenders may, when authorized by military officials of the Armed Forces, apprehend an individual absent without leave from the military service of the United States and deliver him into custody of the military authorities of the United States. Receipt of DD Form 553 or oral or written notification from military officials or Federal law enforcement officials that the person is absent and that his return to military control is desired is authority for apprehension and will be considered as an offer of a reward.

3. INDIVIDUAL CLAIMS HE IS NOT ABSENT WITHOUT LEAVE. When a detained individual claims that he is not absent without leave and does not have the papers to prove his claim, the apprehending person or agency representative should communicate direct, by the most rapid means available, with the commanding officer of the appropriate Army, Navy, Air Force, Marine Corps, or Coast Guard installation to ascertain the absentee's correct status.

4. FOLLOW-UP ACTION BY APPREHENDING PERSON OR AGENCY. When, 24 hours after the commanding officer of an Army, Navy, Air Force, Marine Corps, or Coast Guard installation has been informed of the apprehension of an absentee, no reply has been received, the apprehending person or agency representative should communicate direct *(either by telephone or telegraph)* with the commander of the nearest major command of the service to which the absentee belongs. Notify Commanding General, major Army command *(for Army personnel)*; Chief of Naval Personnel 20370 *(for Navy personnel)*; USAFMPC *(AFPMDRAIA)*, Randolph AFB, Texas 78148 *(for Air Force personnel)*; Headquarters, United States Marine Corps 20380 *(for Marine Corps personnel)*; and Commandant, United States Coast Guard 20591 *(for Coast Guard personnel)*.

5. PAYMENTS. a. REWARDS. *(No payment of a reward will be made unless the offer of a reward has been made.)* Persons or agency representatives *(except salaried officers or employees of the Federal Government or service members)* apprehending or delivering absentees or deserters to military control will receive:

(1) Payment of a reward of $15 for the apprehension and detention until military authorities take them under control, or

(2) Payment of a reward of $25 for the apprehension and delivery to military control.

Payment of reward will be made to the person or agency representative actually making arrest and the turnover or delivery to military control. If two or more persons join in performing these services, payment will be made to one person or agency only. Payment of reward will be made whether the absentee surrenders or is apprehended. Payment will not be made merely for information leading to the apprehension of an absentee, nor for apprehension not followed by return to military control.

b. REIMBURSEMENT. Reimbursement, not to exceed $25, may be made for actual expenses incurred in those cases in which no reward has been offered or when conditions for payment of reward cannot otherwise be met. Salaried officers or employees of the Federal Government, service members, attorneys on whose advice the absentee surrenders himself to military authorities, and other persons not entitled to receive a reward may be reimbursed in accordance with current regulations of the appropriate service. If two or more persons join in performing these services payment will be made jointly or severally, but total payment to all persons may not exceed $25.

c. Both reward and reimbursement may not be paid for the same apprehension and detention or delivery.

d. Appropriate payment of reward or reimbursement *(but not both)* will be made by the disbursing officer servicing the military facility to which absentee is delivered and will be in full satisfaction of all expenses of apprehending, keeping and delivering the absentee.

U.S. GOVERNMENT PRINTING OFFICE: 1970—393-713/S-408

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Rank/Name Sgt Buckmeier

Organization 2d Cavalry Det

Name Kasecek Richard E
(last, first, middle initial)

SSN 057 44 5154 Service No. _____

Rank/Grade _____ MOS _____

FMCC _____ FRUC _____

PMCC _____ PRUC _____

Duty Status _____

SDN Date _____

Date/Time Aprnd _____ By _____

Charges _____

Where Cnfd _____
(city, state, zip)

Term of Sentence _____

Date Rel (if applicable) _____

Returned to Military Control (if applicable)

Date/Time _____ Location _____

Remarks: SNM failed to RPT under UCMJ
Will send DD 533

Received by Corporal C. Gittel

FILE IN CASE

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RICHARD E. KASPEREK
1883 Electric Avenue
Lackawanna, New York

Petitioner/Plaintiff

vs. Civ-76-222

DONALD RUMSFELD, SECRETARY OF DEFENSE
and
COMMANDANT, UNITED STATES MARINE CORPS
and
CAPTAIN E. D. MILLER
INSPECTOR-INSTRUCTOR,
Company D
First Battalion
25th Marines
4th Marine Division
3 Porter Avenue
Buffalo, New York 14201

Respondents/Defendants

APPEARANCES: MARTOCHE, COLLESANO, ABRAMOWITZ & GELLER
(ROBERT C. MACEK, ESQ., of Counsel)
Buffalo, New York, for Petitioner/Plaintiff.

RICHARD J. ARCARA, ESQ., United States
Attorney (EDWARD J. WAGNER, ESQ., of Counsel)
Buffalo, New York, for the Government.

Plaintiff, a private in the United States Marine Corps, has brought this action seeking his release from the Corps on the grounds that he was fraudulently induced to enlist and that his enlistment contract has been breached.

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Plaintiff claims a cause of action under the federal mandamus statute, 28 U.S.C. §1361, and/or under the habeas corpus statute, 28 U.S.C. §2241. Presently before the court is the Government's motion to dismiss for lack of jurisdiction on the grounds that the plaintiff is not in custody in the Western District of New York and that plaintiff has failed to exhaust his administrative remedies. There is no need at this time for a detailed description of the facts.

The Supreme Court has held that habeas corpus jurisdiction does not exist in a district court unless the "custodian" is within the district court's territory. The Government argues that the plaintiff's "custodian" is his superior at his home base, Camp LeJeune, North Carolina. The plaintiff contends that Marine Captain E. D. Miller, based in Buffalo, is his present immediate custodian, and that, alternatively, the plaintiff's contacts with the Marine Corps in this district are sufficient under the theory of Strait v. Laird, 406 U.S. 341 (1972), to bring his nominal custodians, Secretary of Defense Rumsfeld and the Marine Commandant, within this court's

jurisdiction. The plaintiff's argument has some merit. See Emma v. Armstrong, 473 F.2d 656, 657-658 (1st Cir. 1973), cert. denied, 414 U.S. 870 (1973); Hoover v. Kern, 466 F.2d 543 (5th Cir. 1972).

With regard to the exhaustion of administrative remedies, the Government contends that plaintiff should proceed within the military under 10 U.S.C. §§938, 1552 to request the relief he seeks. In a similar case, the Sixth Circuit Court of Appeals has ruled that "[w]here no emergency, hardship or futility exception is present in a case where an enlisted man claims breach by a branch of the military services of his enlistment contract," it is proper to require resort to §1552 before requesting relief in the federal courts. Seepe v. Department of the Navy, 518 F.2d 760, 761 (6th Cir. 1975). But in this case, plaintiff alleges hardship. In addition, all necessary witnesses appear to be within the immediate area, and no particular administrative expertise is involved in considering the question the plaintiff has raised.

Pending a hearing on this matter, this court declines to rule on the Government's motion. A hearing

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will be held June 24, 1976 at 9:00 a.m.

So ordered.

John T. Curtin

JOHN T. CURTIN
United States District Judge

DATED: June 15, 1976

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

* *

RICHARD E. KASPEREK,

Plaintiff,

-v-

CIVIL DOCKET
NO. 1976-222

DONALD RUMSFELD, Secretary of Defense; COMMANDANT, U.S. MARINE CORPS; CAPTAIN E.D. MILLER, Inspector-Instructor, Company D., First Battalion 25th Marines, 4th Marine Division,

Defendants.

* *

Proceedings of Hearing held before the HON. JOHN T. CURTIN, United States District Judge, in Part I, United States Court House, Buffalo, New York, commencing on July 15, 1976.

APPEARANCES: ROBERT C. MACEK, Esq., Attorney for the plaintiff.

RICHARD J. ARCARA, United States Attorney, by EDWARD J. WAGNER, Assistant United States Attorney. Attorney for defendant.

INDEX OF WITNESSES

PLAINTIFF WITNESS:	DR.	CR.	RDR.	RCR.
EUGENE J. WIDLAK	5	20	26	
RICHARD KASPEREK	27	54	99	100
EDWIN PALCZEWSKI	101	106		
DEFENSE WITNESS:				
RONALD KOPONEN	133	156		
THOMAS P. CARRAS	159	170	182	188

INDEX OF EXHIBITS

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3	Pool Card; Applicant Data Card	4	5
4	Service Record	4	5
5	Health Record	4	5
6	Marine Corps File Folder	4	5
7	Enlistment Contract prepared by Sgt. Koponen	4	5
8	Orders dated 3-26-75	4	5
9	Enlistment Contract prepared by Capt. Karras dated 3-26-75	4	5
10	Copy of Enlistment Contract prepared by Sgt. Askey dated 3-26-75	4	5
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12	Statement of Understanding dated 3-26-75	4	5
13	Test Score Results dated 9-17-74	4	5
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15	Armed Forces Vocational Aptitude Battery Worksheet	4	5
16	Enlistment Record	4	5

PROCEEDINGS: July 15, 1976, 11:30 a.m.

APPEARANCES: As before noted.

(Defendants' Exhibits Numbered 1 through 16, respectively and inclusive, marked for identification.

THE COURT: Mr. Macek.

MR. MACEK: Yes, your Honor.

THE COURT: It appears that you have the burden here, you want to show that your man because of misrepresentations made by the representative of the defendant induced your client to sign a contract.

MR. MACEK: Yes, your Honor.

THE COURT: Which resulted in his coming into the Service.

MR. MACEK: Yes, your Honor. We have the burden of proof on that. We have stipulated certain sixteen exhibits into evidence, your Honor, Mr. Wagner and I have agreed. We have given the Court essentially everything we have. Some of those will be referred to in the testimony and others will not, but we thought it

better to give you everything. That is essentially everything we have in the matter. I will deal only with a couple of those in my direct case. We have essentially agreed that Mr. Kasperek did sign certain papers and all of those are in the exhibits we have submitted.

THE COURT: All right. You want to put your first witness on?

MR. MACEK: Yes, your Honor.

THE COURT: Mark the exhibits in evidence.

(Defendants' Exhibits Numbered 1 through 16, respectively and inclusive, received in evidence.)

MR. MACEK: I call Mr. Eugene Widlak.

E U G E N E J. W I D L A K (56 Barone Circle, Cheektowaga, New York), a witness called by and in behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION BY MR. MACEK:

Q Mr. Widlak, you are the uncle of Richard Kasperek?

THE COURT: What is your name, please?

THE WITNESS: Eugene Widlak.

THE COURT: Widlak?

THE WITNESS: W-i-d-l-a-k.

THE COURT: Thank you.

BY MR. MACEK:

Q. And are you a veteran of the United States Armed Services?

A. Yes, sir.

Q. What branch?

A. U. S. Marine Corps.

Q. And what years did you serve?

A. '43 to '49.

Q. Did there come a time in September of 1974, when you had occasion to go up to the Marine Corps recruiting substation in Hamburg, New York?

A. Yes, I did.

Q. How did you happen to go up there?

A. I took my nephew up for enlistment.

Q. Was there anyone else with you at that point?

A. There was my son and my nephew.

Q. And what was the purpose of your visit?

A. To try to get the nephew in the Marine Corps.

Q. And was it his idea to go or was it your idea?

A. No, his.

Q. Did you have an occasion to know if he was interested in any particular job in the Marine Corps?

A. Before we took him to the recruiting office, we talked about different categories in the Marine Corps and we talked about bulk fuel.

Q. And what was your understanding as to what the bulk fuel job consisted of?

A. The bulk fuel, I understood, was supposed to be to work on aircraft, refueling planes, that category.

Q. And who had you spoken to concerning this occupation?

A. Prior to this, I spoke to a fellow that was in the Marine Corps. He worked on bulk fuel on aircraft in Iwakuni, Japan, Marine Corps Air Station.

Q. How did you happen to meet this gentleman?

A. This fellow was in service with my son. They met overseas.

Q. Did the, - strike that. I am sorry. Would you repeat your answer? How did you meet this gentleman?

A. This fellow come home on leave with my son and they were here in Buffalo together and we talked about bulk fuel with the nephew.

THE COURT: Your son, Mr. Widlak, at that time was in the Marine Corps?

THE WITNESS: Yes, my son.

THE COURT: Your son?

THE WITNESS: Yes.

THE COURT: Where was he stationed then?

THE WITNESS: Iwakuni, Japan with the Marine Corps Air Station.

THE COURT: He was working in this kind of activity?

THE WITNESS: Yes, sir.

THE COURT: All right. Go ahead, Mr. Macek.

BY MR. MACEK:

Q When you went to the Hamburg Recruiting Substation, who did you speak with there?

A Two recruiters, both staff sergeants in the Marine Corps.

Q Do you recall their names?

A Keith was one, Koponen, I believe.

Q Koponen?

A Koponen, right.

Q And did you and Mr. Kasperek speak to him about this particular job?

A Yes, we did.

Q Can you tell us what was said about Mr. Kasperek and this job?

A We talked to the recruiters, both sergeants, and they

said before anything can be done Richard Kasperek would have to take a test to see whether he qualified and in what field.

Q. Was it indicated to these recruiters which, - what job Mr. Kasperek might be interested in?

A. Yes. We explained, - I explained to him what he wanted.

Q. Could you tell us what you explained about this job?

A. We talked to the recruiters and they stated or I stated that Richard wanted a job as a bulk fuel aircraft man and they give him the test and come back and said he was qualified for this work, he would get this after basic training, they would send him to school to learn bulk fuel weights reloading aircraft and they said they would, - we talked a little more about this bulk fuel and I can't recall what school was stated, what they said.

Q. Was a school stated?

A. Yes, a school stated for Marine Aircraft and I can't recall what school it was and we got done talking and they told Richard after he completes enlistment after his knowledge with bulk fuel and refueling planes, he would be able to get a job anyplace at any airport in the country with this knowledge.

Q. Did you say anything with reference to that remark by the recruiter?

A. Yes. I said I had a couple neighbors worked for the airlines and they would help him get a job upon his discharge.

Q. You said that Mr. Kasperek took some tests there. How did that come about?

A. The recruiters, they gave him some kind of a test, answers and questions, - questions and answers, whatever it is, aptitude test, and they come out and told me he did pass the test.

Q. Did the recruiters state to you anything he did not pass on the test or anything like that?

A. He just stated that Richard has passed the test in the mechanical field, but not in administration, administrative assistant.

THE COURT: Mr. Widlak, you talk about a recruiter. Do you know who this man is?

THE WITNESS: The recruiter?

THE COURT: Yes.

THE WITNESS: Yes, sir.

THE COURT: What was his name?

THE WITNESS: The one I talked to was Sergeant Koponen and the other one was Sergeant Keith, both in Hamburg.

BY MR. MACEK:

Q. Was there any discussion of a guaranteed enlistment

program?

A. Yes, there was. Upon, - they told me if Richard passed the test after basic training, he would get into a guaranteed field. This field was supposed to have been again, coming back, the bulk fuel, refueling aircraft. We stated this.

Q. And so, are you saying that Mr. Kasperek - -

MR. WAGNER: I object, Judge, to Mr. Macek paraphrasing it.

THE COURT: It is. I will sustain the objection. There is some leading which we will permit, but there is no need to keep saying it.

MR. MACEK: I have no further questions at this time, your Honor.

CROSS EXAMINATION BY MR. WAGNER:

Q. Mr. Widlak, sir, you mentioned that your son was in the Marines at the time?

A. Yes, sir.

Q. Do you know what particular occupation he had at that time?

A. At the time when he enlisted, my son was home on leave. He worked Staff Security.

Q. So your son himself had no particular knowledge about

bulk fuel?

A. Yes, he did. At the time he was in Japan, he worked with bulk fuel and staff security.

Q. He worked both of those jobs?

A. Yes.

Q. Do you know what he did as far as being a bulk fuel man in Japan?

A. Him and his crew, they worked on reloading, refueling aircraft.

Q. And when was it that your son, sir, had enlisted in the Marine Corps?

A. I believe 1970, '71. I forget now.

Q. And your son had been guaranteed a particular occupation when he went in or not?

A. Yes, sir.

Q. What was he guaranteed when he went in?

A. I couldn't answer that. I forget it.

Q. Well, do you know if he was guaranteed to be a bulk fuel man when he went in?

A. No, sir.

Q. He was guaranteed something else?

A. Yes.

Q. And I take it it came about that during the course of his career in the Marine Corps he was shifted to bulk fuel?

A. Yes.

Q. That is your understanding anyway?

A. Yes.

Q. And he had a friend that was home on leave with him?

A. Yes, sir.

Q. What was his name?

A. Chuck Sikorski, Charles.

Q. And Mr. Sikorski was from the Hamburg area?

A. No, sir.

Q. The Buffalo area?

A. No, New Jersey.

Q. But he came home with you, I take it, to your home?

A. At my home.

Q. And he had some knowledge about bulk fuel?

A. That's all he had done in the Marine Corps was bulk fuel.

Q. And he explained to you his understanding of what bulk fuel was?

A. Yes,sir.

Q. Now, Mr. Widlak, did you have any knowledge about bulk fuel during your days in the Marine Corps?

A. No, sir.

Q. So all the information you got about bulk fuel was from your son's friend and your son, is that right?

A. Right, sir.

Q. And I take it you got it all at that one time when they were home on leave?

A. Yes, but I worked out at the airport. I knew about bulk fuel for airplanes at the Buffalo Airport.

Q. Well, the people you knew at the airport were not in the Marine Corps, though, is that right?

A. No, sir.

Q. So you had some knowledge about Buffalo Airport?

A. Yes, sir.

Q. But you had no way of knowing whether or not that was, what the Marine Corps would be doing about bulk fuel?

A. No, sir.

Q. Now, when you went to see Sergeant Koponen, that is, K-o-p-o-n-e-n?

A. I believe.

Q. When you went to see him, you told him that your son or that your nephew, Mr. Kasperek wanted to enlist in the Marines or was interested in it?

A. Right.

Q. And you recall Sergeant Koponen telling you at that time that your nephew would have to take certain tests?

A. Yes, sir.

Q. And do you recall Sergeant Koponen telling you at that time that he could not promise a man any particular job in the Marine Corps, but he could promise him a

range of jobs?

A. He told me it depended on the tests he took.

Q. That he could promise him a range of jobs, is that right?

A. Anything but the administrative field.

THE COURT: Anything but what?

THE WITNESS: Administration field, clerk, typist and stuff of this order.

BY MR. WAGNER:

Q. But you do recall, sir, do you know, that Sergeant Koponen advised Mr. Kasperek that he could not promise him a specific job but that he could promise him that he would be eligible for a certain category of jobs, is that right, sir?

A. No, sir.

Q. That is not right?

A. No.

Q. What did he say to him?

A. Koponen told him, or the Sergeant told him if he took the test and he passed his test, he told me that Richard would be eligible for Marine Aircraft Schooling after he completed basic training at Paris Island.

Q. Do you recall whether or not Sergeant Koponen told you he would be eligible for bulk fuel or did he tell you

he would be eligible to refuel aircraft?

A. He said bulk fuel.

Q. Did you talk to Sergeant Koponen about your understanding of what bulk fuel was?

A. Yes, sir. We talked about bulk fuel on aircraft in the Marine Air Corps.

Q. And what did Sergeant Koponen say about that, if you can recall?

A. As I recall, the Sergeant said once Kasperek finishes basic training at Paris Island, he will be sent to learn weights of fuel for aircraft.

Q. He specifically mentioned airplanes?

A. He said aircraft.

Q. And did Sergeant Koponen say that Mr. Kasperek would also, when he signed up, be eligible for other types of work?

A. He told me he would be eligible for other types, but we stated we wanted him in the Marine Air Corps as bulk fuel and he asked me if I knew what bulk fuel meant and I said bulk fuel is a JP or JP4 and Richard was supposed to work with this JP4, aircraft fuel.

Q. You are saying, sir, that you made it very clear to Sergeant Koponen that your son was to go into the aircraft area, is that right?

A. Nephew.

Q. Nephew, I am sorry.

A. Yes.

Q. Your nephew was to go into the aircraft area?

A. Yes, sir.

Q. And that you would enlist or he would enlist only if he could absolutely be guaranteed a job as an aircraft refueler, is that right, sir?

A. Correct.

Q. And what did Sergeant Koponen say about that?

A. He says if he signs for this now, he will be eligible for this job?

Q. Sergeant Koponen, you are saying, absolutely guaranteed Mr. Kasperek that he would be an airplane refueler?

THE COURT: Excuse me. I am really, frankly, completely confused. A few minutes ago, if I understood you correctly, you said, as I understood it, that he could be assigned to any job except a clerk's job. Is that what Sergeant Koponen said?

THE WITNESS: He did not pass his test for clerical field, administrative field.

THE COURT: Yes.

THE WITNESS: But he was eligible for anything else, so we specified we wanted him in bulk fuel at a Marine Corps Air Station,

the Marine Air Wing.

THE COURT: But he said he was eligible for any other kind of job. What did you understand when he said "eligible"?

THE WITNESS: Anything from the infantry to paratroops, parachute riggers, anything else, cook, bakers, on this order.

THE COURT: On that order?

THE WITNESS: Yes, sir.

THE COURT: The problem them came, you discussed with him then the question of assignment, is that it?

THE WITNESS: No, not assignment, we talked to him about, - and Richard about getting into the Marine Aircraft, Marine Air Corps, the Marine Air Wing.

THE COURT: All right. In the Marine Air Wing, did you understand that he could be assigned to a great variety of jobs in the Marine Air Wing?

THE WITNESS: We spoke about this, sir, but we specified, I specified and the nephew that he wanted to get into the refueling field.

THE COURT: Go ahead, Mr. Wagner.

BY MR. WAGNER:

Q. Well, Mr. Widlak, do you recall that the Sergeant showed Mr. Kasperek any documents or brochures or films at that time about what he was eligible for?

A. There was brochures on the shelf, cabinet, and we went through them, but he never explained anything about this. In fact, he did give the nephew a bunch of them. He said, "Take them home, give them to your friends", but he never explained any brochure as far as I know.

Q. Do you recall about how long this meeting took place you are speaking of?

A. Oh, we got there, I would say, around 10:00 in the morning and I would say we left there 11:15, 11:20, 11:30.

Q. Now, do you recall, sir, if you went back to see the Sergeant at any time after that?

A. Myself?

Q. Yourself.

A. No, sir.

Q. Have you seen him ever again since then?

A. I see him at the going away party we had for the nephew.

Q. Did you talk to him at that time about anything about your nephew's assignment?

A. No, sir. We all knew he was going to Paris Island for basic training, boot camp.

Q. And you are sure, sir, or your recollection is that Sergeant Koponen absolutely, positively guaranteed Mr. Kasperek that he would end up with an assignment where he refueled aircraft?

A. Correct.

MR. WAGNER: Okay. I have nothing else, sir.

REDIRECT EXAMINATION BY MR. MACEK:

Q. Mr. Widlak, you quoted the Sergeant as saying Richard was eligible for everything but administration. When was that remark made?

A. This remark was made at the recruiting office. They took Richard into a back room for his testing and we talked about this and when the Sergeant got the results back, that's when me and him started talking about it and then in the meantime they had Richard in another anteroom talking to him.

Q. Was this statement about eligible for everything but administration, was that in reference to the test?

A. Yes, sir.

Q. Was this in response to a question of yours?

A. Well, I did ask him how he made out on the test, yes, sir.

Q. And his answer was - -

A. That he could have anything but administration field.

MR.MACEK: No further questions.

THE COURT: Mr. Widlak, you were in the Marine Corps yourself for six years?

THE WITNESS: Correct.

THE COURT: What did you do?

THE WITNESS: I was in the infantry, sir, and I was a tank driver, tank crewman, and they were short of men and they took me out of tank and put me in an assault platoon on bazookas and flame throwers.

THE COURT: There was no question that at that time you could be assigned anywhere?

THE WITNESS: Wherever they were short of men. It could be flame throwers, bazooka shells.

THE COURT: When your son enlisted in the Marine Corps, I suppose that you had your own experience about many different areas, but as far as assignment to job, it would appear to you that the Marine Corps could assign him, generally, to any job unless there was some specific arrangement that he only go to a certain job?

THE WITNESS: Correct.

THE COURT: Was that a matter of concern for you

and for him when your son enlisted in the Marine Corps?

THE WITNESS: Sir, my son enlisted in the Marine Corps, he went down to the recruiting office. I just come out of the hospital with a heart attack and he come out to the house, December 23rd, he come out to my house and said, "Dad, I joined the Marine Corps", and I said, "What did you put in for", and he said, "Dad, it's a guaranteed job", and I forget what it was, and he went to Paris Island and they sent him to Jacksonville, Florida and I can't tell you the next base he went to, but he ended up in the Pacific, in Japan also.

THE COURT: He is doing something out of the field in which he thought he was going to be in?

THE WITNESS: Yes, sir. He put in for transfer from one field into another.

THE COURT: Now, you say as far as your son is concerned, he went in with an idea that he was going to be given one assignment and then because of his own request, he

then went into another field?

THE WITNESS: Correct, sir.

THE COURT: You know, generally, though, you know, Mr. Widlak, the Marine Corps in comparison to the Air Force, Army and Navy is a relatively small organization?

THE WITNESS: Yes, sir.

THE COURT: Is that true?

THE WITNESS: Yes, sir.

THE COURT: You know that from your own experience and training that it is important for a Marine to be able to do a variety of jobs as well?

THE WITNESS: Yes, sir.

THE COURT: Because it is a small organization.

THE WITNESS: Yes.

THE COURT: You know, for example, that even refuelers and other people in air wings who have jobs in air wings also receive infantry training from time to time?

THE WITNESS: This is when he come out of basic training.

THE COURT: Of course.

THE WITNESS: And then they get their guarantee and work in their guaranteed job, they

are supposed to.

THE COURT: On the other hand, you know the philosophy of the Marine Corps is, from your own experience, that if there should be some serious disaster, difficulty, crises, that people who are working in air wing jobs could be assigned to infantry or artillery jobs, isn't that true?

THE WITNESS: Infantry, yes, sir, but not artillery.

THE COURT: Artillery would require additional training.

THE WITNESS: Right.

THE COURT: All right, so you knew when you were talking to the recruiter that because of the size of the organization, because of your own experience, that it is absolutely necessary that an individual marine be able to do a number of jobs and may get assignments in a number of jobs too, isn't that true?

THE WITNESS: Yes, sir.

THE COURT: In this case here, you knew what the man there was saying to you, the Sergeant; did you look at the writing,

whatever the form was that your nephew signed?

THE WITNESS: No, sir, they didn't show me any forms.

THE COURT: Didn't you think that was important?

THE WITNESS: To me, no, because the boy was an age and the Marine Corps, the recruiters just tell me what they can get for this boy, but they never showed me any papers.

THE COURT: Mr. Kasperek, didn't you have your own experiences when you were in the Marine Corps when someone, you know, told you that certain things were going to happen and then you found that those orders were changed from on high?

THE WITNESS: Many times, but not - -

THE COURT: Many times?

THE WITNESS: Yes, sir, but not in the job field?

THE COURT: Never in the job field?

THE WITNESS: They took me out of the tank outfit and put me in the assault platoon, sir. This is because they brought fresh troops in. No, they could not take me from the tank outfit and put me in the artillery.

THE COURT: That is because there was a training

difficulty. They could if you went through a period of training?

THE WITNESS: Yes, sir.

THE COURT: Isn't that true?

THE WITNESS: Yes, sir.

THE COURT: To be a good infantryman, you needed substantial training also?

THE WITNESS: Strictly infantry, sir.

THE COURT: Sure.

THE WITNESS: The Marine Corps works on what they call a specific code. Every job has a special number.

THE COURT: All right. Anything else?

REDIRECT EXAMINATION BY MR. MACEK:

Q. One or two brief questions. Mr. Widlak, there was no guanteed enlistment program of any sort when you went in in 1943?

A. No, there was not.

Q. But there was in the case of your son?

A. The son and the nephew, yes, sir.

Q. And your son has gotten pretty much what he wanted?

A. Yes, sir, that's right.

MR. MACEK: No further questions, your Honor.

THE COURT: Very well. Next witness, please.

MR. MACEK: I call the petitioner, Richard Kasperek.

* * * * * * *

R I C H A R D K A S P E R E K (1883 Electric Avenue, Lackawanna, New York), the plaintiff herein, having been first duly sworn as a witness in his own behalf, was examined and testified as follows:

DIRECT EXAMINATION BY MR. MACEK:

Q. Mr. Kasperek, are you now a member of the United States Marine Corps?

A. Yes, sir.

Q. And did you haveoccasion in 1974 to visit the recruiting office in Hamburg?

A. Yes, sir.

Q. Now, you have just heard the testimony of your uncle. Do you recall, - is your memory of that substantially the same as his?

MR. WAGNER: Judge, I will ask him, rather him rather than just to affirm what his uncle said, to testify in his own language, if possible.

MR. MACEK: Very well.

THE COURT: I think that is better.

BY MR. MACEK:

Q. Okay, your Honor. I was thinking about saving some time, but I will go through it. When you went up to the, - or first, do you recall about when that was?

A. September of '74.

THE COURT: You have to speak up, please, Mr. Kasperek, a little bit.

THE WITNESS: Yes, sir.

BY MR. MACEK:

Q. Can you come a little closer to the microphone, and were you interested in any particular job in the Marine Corps when you went to see the recruiters?

A. Yes, sir.

Q. And what recruiters did you speak to on that day?

A. Sergeant Koponen.

Q. Did you speak also with another - -

A. Sergeant Keith was there.

Q. And did you explain to him, - well, what was it that you were interested in?

A. Bulk fuel.

Q. And what did you understand the bulk fuel job to consist of?

A. Withweights and fuel for jets.

Q. And how did you come by this understanding?

A. Talking to my uncle and cousin and his friend.

Q. And the cousin's friend that you referred to is, - how did he know about bulk fuel?

A. He was a bulk fuel man.

Q. And is he the gentleman that your uncle testified about?

A. Yes, sir.

Q. And when in time was that in relation to when you went to see the recruiting office in Hamburg?

A. I don't remember exactly when it was. It was the first part of September, I think.

Q. Just shortly before that?

A. Yes, sir.

Q. Did you make known to either or both of the recruiters what sort of job you were interested in?

A. Yes, sir.

Q. And what did you explain to them about what you were interested in?

A. I told them I wanted to get into the bulk fuel so it would help me when I came out.

Q. Help you when you got out in what way?

A. Get a job.

Q. Was a sort of job mentioned? Did you tell them what sort of civilian job you were interested in?

A. Yes, sir.

Q. And what did you tell them about that?

A. Refueling jets at airports.

Q. Did Sergeant Koponen or Sergeant Keith talk about bulk fuel with aircraft that day?

A. Well, Sergeant Koponen said that I could get a job at an airport working with jets when I got out of the service after my four year enlistment.

Q. Did you, - well, what was discussed that day as to your qualifications for this job or other jobs in the Marine Corps?

A. I was told that I could get definitely into bulk fuel.

Q. And when were you told that?

A. September of '74.

Q. Was this, - I believe you said you took some tests. Was this before or after?

A. That we were talking about that?

Q. Yes.

A. It was after.

Q. And did Sergeant Koponen, - what did Sergeant Koponen tell you about the guaranteed enlistment program in relation to this particular job?

A. He said if I wanted a guaranteed job with bulk fuel, I have to sign for four years.

Q. And did you, at that time, - I'm sorry, did you, at that time, sign up for the Marine Corps?

A. No, sir.

Q. Did you take any other tests after that?

A. After September?

Q. No, after the meeting that morning in September, 1974.

A. Yes, sir, I took some that night.

Q. And where did you take those?

A. Down in Tonawanda.

Q. And did you communicate with any recruiter after that time?

A. Yes, sir, the next day.

Q. And what were you told at that time?

A. Told that I passed all the required tests and I could get into bulk fuel or anything else.

THE COURT: Who was this? You say you contacted a recruiter. Who did you talk to?

THE WITNESS: Sergeant Koponen.

BY MR. MACEK:

Q. And did you, at that time, enlist in the United States Marine Corps?

A. No, sir.

Q. Did you have any further discussions with Sergeant Koponen?

A. Yes, sir, Sergeant Koponen called me a few times and there were a few meetings down at the recruiting office.

Q. Can you tell us approximately when they were?

A. One meeting was in January. I can't remember when the rest were.

Q. Did you say that Sergeant Koponen called you sometime?

A. Yes.

Q. Can you tell us what he said in one or more of those conversations?

A. He said that if I wanted to join the Marine Corps bulk fuel was still open and I could get into it.

Q. These were telephone conversations that he placed to you?

A. Yes, sir.

Q. Did there come a time when you finally did sign up for the Marine Corps?

A. Yes, sir.

Q. And when was that?

A. March 26, 1975.

Q. Did you contact, or who did you contact at that time?

A. Sergeant Koponen.

Q. And what did you say to him at that time?

A. Well, I called him up and I asked him what he could do for me and he asked me what I wanted and I said I still wanted the bulk fuel and he said I could have it and so I went down and started signing my life away.

Q. Did you go down the same day that you called him?

A. Yes, I did.

Q. Was anyone with you at that time?

A. Yes, sir.

Q. And who was that?

A. Edwin Palczewski.

Q. And did you, that afternoon, sign the enlistment contract?

A. On the 26th, yes.

THE COURT: Excuse me, so I get this. Your uncle, Mr. Widlak was with you in - -

THE WITNESS: September.

THE COURT: September?

THE WITNESS: Yes, sir.

THE COURT: Of 1974?

THE WITNESS: Yes, sir.

BY MR. MACEK:

Q. And this is occurring in March of - -

A. '75.

Q '75. Did you see the - -

THE COURT: He was only with you on the one occasion?

THE WITNESS: Yes, sir.

THE COURT: He was not with you when the telephone calls were made?

THE WITNESS: No, sir. I was at home then.

THE COURT: Or he was not with you when you had the other meetings with the sergeant or when you finally enlisted on March 26?

THE WITNESS: No, sir.

BY MR. MACEK:

Q At the time when you enlisted, how many visits did you make to the Marine Corps recruiting office?

A Approximately five.

Q At the time of your actual enlistment.

A That day I went down about 10:30 that morning and I was one time after that and then he took me down to the Federal Building.

Q Had you been there recently at that point?

A The day before.

Q You placed a phone call and then what happened?

A That's when I went down.

Q You went down one afternoon?

A. I went down that afternoon and he had a few small papers to type out I had to sign and I went down on the 26th.

Q. The 26th, is that the next day?

A. Yes, sir.

Q. You went down on the 26th?

A. Yes, sir, that was the time I formally enlisted.

Q. And you made two visits?

A. Yes, sir.

Q. And the second visit you made, was anybody with you at that point?

A. Yes, sir.

Q. And who was that?

A. Edwin Palczewski.

Q. And on that morning visit, do you recall what you did?

A. Yes, sir. I went in there and Sergeant Koponen just started talking and telling me I had to go down to the Federal Building at 1:00 o'clock and then he brought out some papers and told me to look them over and I looked them over real quick and then he told me where to sign them.

Q. I hand you Government Exhibit Number 12 which has been stipulated into evidence. Do you recognize that piece of paper?

A. Yes, sir.

Q. Where do you recognize that from?

A. The recruiting office.

Q. If you turn it over and look on the back, is that your signature?

A. Yes, sir.

Q. And you signed, - when did you sign that?

A. That morning.

Q. Turning to the front side of it again, did you and Sergeant Koponen have any conversation with reference to anything on that document?

A. Yes, sir, mechanical, electrical in here.

Q. Would you tell me what you said?

A. First I asked him what was going on because I wanted to enlist for bulk fuel and he assured me that bulk fuel was in mechanical-electrical and I would get it.

Q. What was your occasion for saying that?

A. Mechanical-electrical typed out on the top.

Q. And is that in what paragraph?

A. First paragraph.

Q. Was this an extended discussion with him or was it a short discussion?

A. It was fairly short.

Q. Do you recall what his words were?

A. He said not to worry about it, that I would get bulk fuel.

Q. And what happened? You mentioned earlier that you had to go up to the examining station that afternoon. Did you go to the examining station that afternoon?

A. Federal Building?

Q. Yes.

A. Yes, sir.

Q. And how did you get there?

A. Sergeant Koponen picked me up at home.

Q. And at what time?

A. About 1:00 o'clock.

Q. Had you gone home after this earlier meeting?

A. Yes, sir.

Q. And what did you, - what occurred at the examining station?

A. More papers to sign, a spot physical and then the final oath.

Q. I am sorry, what oath?

A. The final oath.

Q. The final oath. Were you alone at any point with one or more other persons or, I mean, were you processed as one person, were there large groups of you going through this?

A. There wasn't a large group. There was a few people. I don't recall how many.

Q. When the forms were being filled out and signed, do you

recall whether there were groups of you or you were individually in a room doing this?

A. There were groups.

Q. Approximately what size, ten a hundred?

A. I would say right around ten, eight or ten.

Q. And how large a group was there at the point when you took the oath?

A. Eight.

Q. But you did not leave for the Marine Corps at that point?

A. No, sir.

Q. When did you, - I am sorry, strike that. When did you next see Sergeant Koponen?

A. At one of the meetings. I don't remember when it was.

Q. Your oath was March 26th?

A. Yes.

Q. When did you finally enter the Marine Corps?

A. 5 September, 1975.

Q. Approximately five and a half, six months later. How many times, - well, did you see Sergeant Koponen during this interval?

A. At the going away party and a few times at meetings in his office?

Q. Approximately how many times?

A. Four, three or four.

Q. What was your occasion for going to see him?

A. Well, they called up and they wanted people to enlist and it was just to get together and talk and he told me to bring a friend.

Q. Was there any talk about a buddy system?

A. Yes, sir.

Q. Will you tell us what, if anything, he told you about that?

A. He said that if a friend went into the bulk fuel or into the Marine Corps before 5 September, that he would, - if he wanted to get in, he could get the same "MOS" as I have, leave the same day, be stationed together.

Q. And did you bring anyone in to see him about this?

A. Yes, sir.

Q. How many people did you bring in to see him?

A. I brought three people in to see him, Sergeant Koponen.

Q. Were these all at once or separate times?

A. No, spread out.

Q. And will you state who those people were?

A. One was Edwin Palczewski, Dino Alemonti and Christopher Krucks.

Q. And did any of those enlist?

A. Yes, sir.

Q. Which ones?

A. Dino Alemonti.

Q. Did he enlist through Sergeant Koponen or through someone else?

A. He enlisted through Sergeant Keith. Sergeant Keith was stationed in West Seneca at the time, but Sergeant Koponen said that he was out of the district for him to enlist there.

Q. Was Dino Alemonti referred by Koponen?

A. Yes, sir.

Q. To Sergeant Keith?

A. Yes, sir.

Q. Did you hear Sergeant Koponen have any conversations with any of these people that you brought in to see him?

A. Just about if they enlisted they could leave the same day I would.

Q. Was there any mention of the jobs that they would get?

A. Yes, sir.

MR. WAGNER: What was his answer,"yes", or "no"?

BY MR. MACEK:

Q. "Yes". What exactly was said about the jobs, if you remember the exact language on any of these - -

MR. WAGNER: Judge, I object to what he heard

the Sergeant and other recruits talking about. I don't know how it could be relevant and I think it is clearly hearsay on hearsay.

MR. MACEK: It would not be hearsay, I think, your Honor, because it is not being admitted for the truth of the statement.

THE COURT: Arguably, it might have something to do, - this is after he came to his decision to - -

MR. MACEK: Yes, your Honor, but it would tend to show that Sergeant Koponen was in the habit of making promises that he perhaps had no authority to make.

MR. WAGNER: If that is the purpose, Judge, then I submit that Mr. Macek has the burden of bringing those people in, or ask Sergeant Koponen.

THE COURT: To understand the point, I will permit him to testify, but I think you are right, Mr. Wagner. If this is going to be the offer, we ought to hear from those witnesses.

MR. MACEK: We will hear from one of those, your Honor.

THE COURT: Go ahead.

MR. WAGNER: If we are going to hear from that one, then I will object on the basis we should have him here.

THE COURT: I will hear it. Overruled.

BY MR. MACEK:

Q Did you hear Sergeant Koponen have any conversations with any of these people that you brought in to see him?

A Yes.

Q Which ones, or all three?

A All three.

Q Do you recall what Sergeant Koponen said to, say, Christopher Krucks?

A Just told him if he wanted.

Q And did you understand, - did Sergeant Koponen indicate that he would, in fact, get that or he might get it?

A If he passed all the tests he would get it.

Q And do you remember any conversations between Sergeant Koponen and Dino Alemonti?

A Yes, sir, but there was nothing mentioned about the bulk fuel.

Q Do you recall the conversation, - do you recall any conversation between Sergeant Koponen and Edwin

Palczewski?

A. Well, Sergeant Kopenen just asked Ed if he wanted to enlist and he told him he was thinking about it and he told him the same thing, the buddy system.

Q. Well, tell me exactly what he said?

A. He said bulk fuel and if he passed all the tests and if he enlisted he could leave the same day I did.

Q. And did there come a time when you finally entered the United States Marine Corps active duty?

A. Yes, sir.

Q. And when was that?

A. September 5, 1975.

Q. Did you see Sergeant Koponen at that time?

A. No, sir.

Q. And after you went on active duty where did you go from there?

A. Paris Island, South Carolina.

Q. What job were you assigned in the United States Marine Corp

A. When we got our orders it had mechanical-electrical and it had code number 3534 and it was questioned what that meant and they said heavy equipment, truck maintenance.

Q. When did you find this out?

A. Three days before graduation from boot camp.

Q. Approximately what date was that?

A. November 30th or 29th.

Q. Did you make any complaint to anyone at that point about the assignment you received?

A. Yes, sir.

Q. Who did you speak to?

A. Senior drill instructor.

THE COURT: Who did you talk to?

THE WITNESS: The senior drill instructor.

BY MR. MACEK:

Q. Do you recall his name?

A. No, sir.

Q. What did you say to him?

A. I told him that the "MOS" that I had wasn't what I signed for and he said there was no way to fix it.

Q. Was this a short conversation with him or a long conversation?

A. Fairly short.

Q. Did he mention anything to you about applying to the Board for correction of military records?

A. No, sir.

Q. Did he give any suggestions to you about what you could do about getting your "MOS" changed?

A. He said I might be able to talk to the career planner after I got to my next station.

Q. After boot camp, what did you do?
A. Came home on leave.
Q. And when did you return to the Marines, to active duty status?
A. December 11th.
Q. And where was that?
A. Camp LeJune, North Carolina
Q. And what did you do there?
A. I was getting ready to go to school for driving a five ton.
Q. And did you make any complaint to anyone about the job you had been assigned?
A. Yes, sir.
Q. Was this a written complaint or an oral complaint?
A. Oral complaint.
Q. And who did you speak to?
A. The career planner, the first sergeant, the platoon sergeant and another sergeant.
Q. One at a time, please. Who was the first one you spoke to?
A. The career planner.
Q. And this is right there at the beginning of school?
A. Yes.
Q. And do you recall his name?
A. No, sir.

Q. What did you say to him?

A. I told him that the "MOS" I had wasn't what I signed for.

Q. And what did he tell you?

A. He told me there was no way to change it.

Q. Did he make any suggestions about how you might change it?

A. No, sir.

Q. Did he mention Article 138 to you?

A. No, sir.

Q. Did he mention the Board for Correction of Military Records to you?

A. No, sir.

Q. When did you next speak to someone about this?

A. The 20th of January.

Q. This is sometime after, - I am sorry. What was the date on which you spoke to the career planner that you testified about a moment ago?

A. It was the early part of January. It was right after I went off on leave because I was home for Christmas.

Q. Did there come a time when you left Military Control for a brief time?

A. Yes, sir.

Q. And when was that?

A. January 16th.

Q. And when did you return to Military Control?

A. January the 20th.

Q. When you returned to Military Control, who did you speak to?

A. The first sergeant.

Q. Do you recall his name?

A. No, sir.

Q. And what did you say to him?

A. I told him that the "MOS" wasn't what I was supposed to get and I would like to get it changed.

Q. Did he speak to you about the fact that you had been AWOL a few days?

A. Yes.

Q. And what did you say to him about that?

A. I told him I was out in Jacksonville talking to a lawyer trying to get out of the service.

Q. Were there going to be any proceedings against you for being AWOL for that short period of time, to your knowledge?

A. I was supposed to go for office hours.

Q. Did the lawyer you spoke to suggest any alternative?

A. Request - -

MR. WAGNER: I will object, Judge.

MR. MACEK: I will withdraw the question.

THE COURT: I will sustain the objection.

BY MR. MACEK:

Q. Did you speak, - I am sorry. When you returned to Military Control, who was the gentleman you spoke to?

A. The first sergeant.

Q. And did he suggest to you any alternatives about changing your "MOS"?

A. No, sir.

Q. What did he tell you about your "MOS"?

A. He told me that I couldn't get it changed.

Q. Did he mention to you the Board for Correction of Military Records?

A. No, sir.

Q. Or Article 138?

A. No, sir.

Q. Or any other avenue of redress?

A. No, sir.

Q. Did you speak to anyone else about your unhappiness with your job?

A. Yes, the platoon sergeant.

Q. Do you recall his name?

A. Sergeant Bunch.

Q. And what did you tell him?

A. The same thing.

Q. Will you tell us exactly?

A. The "MOS" I had wasn't what I signed for.

Q. And what did he tell you?

A. "Go ahead and fuck up my Marine Corps".

Q. Did he offer you any help at all in changing your "MOS"?

A. No, sir.

Q. Did he mention any avenue of applying for a change?

A. No, sir.

Q. Well, how long did this conversation take?

A. A couple minutes.

Q. Did you speak to anyone else?

A. Yes, sir.

Q. About your unhappiness with your job?

A. Yes, sir, Sergeant Gonzales.

Q. And what was his, - how did you happen to see him?

A. He came in to talk to me, myself and a friend that left base on the 16th through the 20th and I explained it to him.

Q. And did you mention to him your unhappiness about your job?

A. Yes, sir.

Q. And what, exactly, did you say to him?

A. I told him that the "MOS" I had wasn't what I wanted, what I signed for.

Q. And what did he tell you?

A. "Fuck you, you are going to spend the rest of your time in jail".

Q. Did he offer you any suggestion?

A. No, sir.

Q. As to how you might change your job or anything?

A. No, sir.

Q. When did you first learn of your father's illness?

A. I think it was March when I first found out about the cancer.

Q. When did you first know that he was sick?

A. Right after I got home from boot camp.

Q. That was what date?

A. December when I got out of boot camp, was the 3rd.

Q. And what did you know about your father's illness at that time?

A. That he had only worked one week while I was at boot camp.

MR. MACEK: I have no further questions.

THE COURT: Mr. Kasperek, how old were you in March of '75 when you enlisted?

THE WITNESS: Eighteen.

THE COURT: When did you become eighteen?

THE WITNESS: October 29th.

THE COURT: In 1974?

THE WITNESS: Yes, sir.

THE COURT: How far did you go in school?

THE WITNESS: Eleventh grade.

THE COURT: Where did you go to school?

THE WITNESS: Lackawanna Senior High.

THE COURT: When did you complete the eleventh grade?

THE WITNESS: It was, - the last year I attended school was '73.

THE COURT: June of '73?

THE WITNESS: Yes, sir.

THE COURT: Then what did you do in 1973 and 1974 before you - -

THE WITNESS: I had a job working with a maintenance company at Buffalo Raceway.

THE COURT: What kind of work did you do there?

THE WITNESS: Clean up.

THE COURT: Why did you leave school?

THE WITNESS: No reason.

THE COURT: How did you do in school?

THE WITNESS: Not too well.

THE COURT: What kind of courses did you have in school?

THE WITNESS: Auto shop.

THE COURT: Please?

THE WITNESS: Auto shop.

THE COURT: Auto shop?

THE WITNESS: Yes, sir.

THE COURT: Did you have some friends or acquaintances, let us say, in the years ahead of you at Lackawanna High School --

THE WITNESS: Yes.

THE COURT: Enlist in the Marine Corps?

THE WITNESS: No, sir.

THE COURT: Enlist in any other service?

THE WITNESS: There was a few friends that enlisted in the Navy.

THE COURT: Did you have occasion to talk to them about their experiences?

THE WITNESS: No, sir.

THE COURT: Do you have any older brothers and sisters?

THE WITNESS: No, sir.

THE COURT: Do you have any younger brothers or sisters?

THE WITNESS: No, sir.

THE COURT: What does your father do?

THE WITNESS: My father died, sir.

THE COURT: I am sorry. What did he do?

THE WITNESS: He was a bus driver.

THE COURT: Was that his job for some time?

THE WITNESS: Twenty-three years.

THE COURT: Is your mother employed?

THE WITNESS: Yes, sir.

THE COURT: What does she do?

THE WITNESS: She works at a little restaurant in Hamburg.

THE COURT: You are the only child?

THE WITNESS: Yes, sir.

THE COURT: Your home has been on Electric Avenue for many years?

THE WITNESS: For the last sixteen years.

THE COURT: We heard here the testimony of Mr. Widlak who is your uncle.

THE WITNESS: Yes, sir.

THE COURT: You and he went to the recruiters?

THE WITNESS: Yes, sir.

THE COURT: After you left the recruiters' office, did you talk to him?

THE WITNESS: Yes, sir.

THE COURT: Further about service in the Marine Corps?

THE WITNESS: Yes.

THE COURT: Did he tell you about some of the experiences he had in the Marine Corps?

THE WITNESS: My uncle?

THE COURT: Yes.

THE WITNESS: He told me about his jobs that he had.

THE COURT: Very well. Mr. Wagner.

CROSS EXAMINATION BY MR. WAGNER:

Q. Mr. Kasperek, first of all, I want to make sure we have a clear record about the sequence of events. You went in to see the sergeant in September of 1974, is that right?

A. Yes.

Q. And you talked at that time about enlisting, but you did not enlist?

A. Yes, sir.

Q. And I take it you gave it some thought over the months that followed?

A. Yes, sir.

Q. And occasionally the sergeant would call you and ask you about your interest or you might talk to him or meet him?

A. He called me and we had the meetings.

Q. And then sometime in January, you took a physical?

A. Yes, sir, for the air force.

Q. You took a military physical?

A. Yes, sir.

Q. And you were still, at that time, partially interested in the Marine Corps, but you weren't certain?

A. Yes, sir.

Q. And then there came a time in March that you finally made a decision to go in?

A. Yes, sir.

Q. And you actually enlisted in March, is that right?

A. Yes, sir.

Q. But the understanding was that you wouldn't actually report for active duty until the fall?

A. Yes, sir.

Q. So it was about a year later after you first went in that you actually,- first went into the recruiter that you actually went into the Marine Corps?

A. Yes, sir.

Q. Now, during that time, you had a job at the Buffalo Raceway, is that right?

A. Yes, sir.

Q. And it is true you weren't very happy with your job?

A. Yes, sir.

Q. And that is one of the reasons you thought about the services?

A. Yes, sir.

Q. And it was your understanding that the Marine Corps could provide you with some training and some experience

so you could, perhaps, get a better job, is that right?

A. That's right.

Q. In fact, that was one of the reasons you thought about the Marine Corps?

A. That and finish high school.

Q. Now, when you first went in to see Sergeant Koponen, you went with your uncle and your cousin, is that right?

A. Yes, sir.

Q. Had you ever seen your cousin before while he was in the Marine Corps?

A. Yes, sir.

Q. Did you talk to him then about the Marine Corps?

A. No, sir.

Q. You had never talked with him?

A. Never had any idea of joining the service.

Q. Well, when was it that you first talked to your cousin about the Marine Corps?

A. About joining the Marine Corps?

Q. Yes.

A. The early part of September.

Q. And had you ever talked to him before that about what he did in the Marine Corps?

A. No, sir.

Q. You just never did?

A. No, sir.

Q. Had you ever talked to your uncle before that about what your uncle had done in the Marine Corps?

A. Yes, sir.

Q. And he told you?

A. Yes, sir.

Q. How about your father, had he been in the service at all?

A. No, sir.

Q. Marine Corps?

A. Army.

Q. Now, when you talked to your cousin in September, what was it that your cousin told you about the Marine Corps?

A. Good opportunity, it would help me out, keep me out of trouble.

Q. Did he explain to you what kind of things he had been trained to do and what kind of job he had?

A. No, sir. We talked about boot camp, you know, that was what I was afraid of.

Q. You were concerned about that, naturally.

A. Yes, sir.

Q. And I take it that your cousin had a friend with him at the time?

A. Yes, sir.

Q. Another former, - a Marine at the time?

A. Yes, sir.

Q. Did you talk to that fellow about what his experiences were like?

A. Yes, sir.

Q. What did he tell you about the Marine Corps?

A. He told me he liked it.

Q. Did he tell you about boot camp?

A. Yes, sir.

Q. And he probably told you about the training he had received?

A. Yes.

Q. And the kind of work he did?

A. Yes.

Q. And the travel he had?

A. Not too much about travel.

Q. But you knew he was in Japan?

A. Yes, sir.

Q. And because of that, I take it you got an interest in the Marine Corps?

A. Yes, sir.

Q. And it was for that reason you went to see the recruiter?

A. Yes, sir.

Q. Now, when you went to see the recruiter, did you go in and ask him about the Marine Corps, or did you go

in and tell him exactly what you wanted?

A. I told him exactly what I wanted.

Q. Did he give you any literature or any brochures or magazines?

A. Gave me brochures.

Q. Let me show you, sir, what is marked Government's Exhibit Number 1. You saw that the other day in our office.

A. Yes, sir.

Q. And the sergeant gave you a book very much like that, didn't he?

A. Yes, sir.

Q. Which had the occupational opportunities available to you?

A. Yes, sir. He gave me a whole stack of books like that.

Q. He gave you more than one?

A. Yes, sir.

Q. And he asked you to give them to your friends?

A. Yes, sir.

Q. Did you look through that at all?

A. Just glanced through it.

Q. And when you glanced through it, you noticed, I take it, sir, that it had a large number of photographs on a wide variety of jobs, right?

A. Yes, sir.

Q. Both flying planes, working on machines and heavy trucks, a baker, mechanics, is that right?

A. Yes, sir.

Q. And isn't it true, Mr. Kasperek, at that time that you were told by Sergeant Koponen that he couldn't guarantee you any absolutely certain position, but that he could tell you what field you will be eligible for generally?

A. No, sir. He said if I passed all the tests, I would definitely get bulk fuel.

Q. And that is what Sergeant Koponen told you?

A. Yes, sir.

Q. Okay, and then you took some tests?

A. Yes, I did.

Q. You took a test at his office, right?

A. Yes, sir.

Q. It is like a screening test?

A. An aptitude test.

Q. That was to see whether or not it would be worth your time to take the more serious tests?

A. Yes, sir.

Q. And you passed that?

A. Yes, sir.

Q. And because of that, Sergeant Koponen scheduled you for the regular mental examination?

A. Yes, sir.

Q. And that was that same evening?

A. In Tonawanda.

Q. And you went there and took the test?

A. Yes, sir.

Q. And you got certain scores?

A. Yes.

Q. And the next day you went back to see Sergeant Koponen, is that right?

A. Yes, sir.

Q. And he had your scores?

A. Yes.

Q. And he went over your scores with you?

A. He just said that I could qualify for bulk fuel.

Q. He told you you did qualify for certain things and you did not qualify for other things?

A. Administration.

Q. Okay, because of your scores?

A. That's right.

Q. Now, isn't it true, Mr. Kasperek that Sergeant Koponen told you you were eligible for the mechanical-electrical ground sub program, he called it?

A. Mechanical-electrical didn't come up until the day I signed the papers.

Q. You never heard that word from Sergeant Koponen?

A. No, sir.

Q. You never talked to him about that?

A. He just said I could get what I wanted.

Q. You don't recall Sergeant Koponen telling you that you were eligible for the mechanical-electric program which included a large number of various specific jobs?

A. No, sir.

Q. He never mentioned that?

A. No, sir.

Q. Now, you left the sergeant's office that day and you had not yet made up your mind?

A. No, sir.

Q. And you say that Sergeant Koponen continued to call you off and on for the next few months?

A. Yes, sir.

Q. And you said that he, - well, what did he say to you?

A. He said that if I wanted the bulk fuel "MOS", it was still open.

Q. And so the record is clear, sir, when he talks about an "MOS" - -

A. That's the job.

Q. That is the Military Occupational Specialty?

A. Yes, sir.

Q. That is the particular job?

A. Yes, sir.

Q. And are you certain, sir, that Sergeant Koponen specifically referred to the bulk fuel "MOS" when he talked to you?

A. Yes, sir.

Q. Do you recall, sir, that Sergeant Koponen told you that bulk fuel was one of many jobs available to you under that "MOS", mechanical-electrical?

A. No, sir.

Q. He never said that to you?

A. No, sir.

Q. Now, there came a time in March that your thoughts about going in the Marine Corps became a little more solid?

A. Yes, sir.

Q. And you called the sergeant up?

A. Yes, sir.

Q. And you told him you wanted to go in the Marine Corps?

A. Yes, sir.

Q. And you asked him what jobs would be available to you?

A. No, sir.

Q. You did not. What did you say?

A. First I said to him, "What can you do for me".

Q. And what did he say?

A. He said the bulk fuel "MOS" is still open.

Q. Are you certain the sergeant specifically referred in March of 1975 to bulk fuel?

A. Yes, sir.

Q. And what did you say?

A. I said "I will be down in about a half an hour to sign up".

Q. By the way, Mr. Kasperek, when you talked to Sergeant Koponen about bulk fuel, I take it you talked to him about it over those months?

A. Just that if I got the bulk fuel "MOS", I could get a job when I got out of the service.

Q. Did Sergeant Koponen reveal to you much knowledge about the bulk fuel?

A. No. I learned it from my uncle's son and his friend.

Q. Sergeant Koponen didn't know anything about bulk fuel, did he?

A. To my uncle. I wasn't really there when they talked about it. I was taking my aptitude test.

Q. Well, it is true, isn't it, that Sergeant Koponen had no knowledge about bulk fuel other than what was written in that book I showed you? In other words, Sergeant Koponen never said what you would be doing as a bulk fuel man because he didn't - -

A. No, sir, he explained it to my uncle.

Q He never said it to you?

A No, sir, he explained it to my uncle.

Q But you and Sergeant Koponen never talked about what a bulk fuel man would do,isn't that right?

A Well, I explained it to him.

Q You told Sergeant Koponen.

A What I thought it was and he said "Yes".

Q He concurred in that?

A Yes, sir.

Q But he never at all ever told you what a bulk fuel man wouldd o, did he?

A No.

Q And he never described it to you and he never indicated to you any knowledge about it?

A Not that I can recall.

Q And that is because he didn't have any knowledge about it, isn't that right?

A I don't know about that.

THE COURT: I suppose he would not know what knowledge he had.

BY MR. WAGNER:

Q Yes, if you know.

A I don't know.

Q Now, you went to see the sergeant on March 25th, the

day before you actually took the oath?

A. Yes, sir.

Q. And you went down to Hamburg to see him?

A. Yes, sir.

Q. What did you do in his office?

A. Signed a few papers.

Q. Now, you mentioned when Mr. Macek asked you some questions, that you went in and you signed some papers. Do you recall what those papers were, sir?

A. I thought one was an insurance claim. It had my mother's and my father's name on it, in case anything happened to me, who to call.

Q. Okay, and there were some papers about your background, where you went to school and where you lived?

A. Yes, sir.

Q. And some things about your health?

A. I don't recall.

Q. They asked you to fill out a form about prior arrests, if you had any?

A. Yes.

Q. And prior problems like that, and they asked you to fill out what is called an enlistment contract?

A. The next day.

Q. Okay, all right. This is on the 25th, still?

A. Yes.

Q. Did they ask you to fill out anything else that day?
A. No.
Q. Do you recall, Mr. Kasperek, whether or not you talked to the sergeant that day about bulk fuel when you met with him at the office?
A. Yes, sir.
Q. And what did you say to him?
A. I told him I wanted the "MOS" for bulk fuel.
Q. And do you recall Sergeant Koponen telling you that he couldn't guarantee you any specific "MOS", but just a particular category of jobs?
A. No, sir. He told me I could have bulk fuel.
Q. He specifically told you that?
A. Yes, sir.
Q. Now, you went home that day?
A. Yes, sir.
Q. After that?
A. Yes, sir.
Q. And the arrangement was that you report the next morning and sign an enlistment contract and be sworn in?
A. Yes, sir.
Q. Is that right?
A. The swearing in took place in the afternoon.
Q. And the next morning you went back and you signed a couple of papers in Sergeant Koponen's office, is that

right?

A. Yes, sir.

Q. And one of them is what is called an enlistment contract?

A. I signed an enlistment contract.

THE COURT: There is one here.

BY MR. WAGNER:

Q. That is the one I would like. Mr. Kasperek, let me show you what has been marked as Government Exhibit 7, and I will have you look that over and it says at the top "Enlistment Contract"?

A. Yes, sir.

Q. And is that your signature midway through that page?

A. Yes, sir.

Q. And that is Sergeant Koponen's signature, if you know?

A. Yes, sir.

Q. Do you recall him signing it and you signing it?

A. I signed a lot of sheets that day.

Q. Well, that is your signature?

A. Yes, sir.

Q. And if you can recall, that was signed in Sergeant Koponen's office in Hamburg.

THE COURT: I think he said it was, Mr. Wagner.

BY MR. WAGNER:

Q. And do you recall Sergeant Koponen telling you that he prepared this as a working copy so that when you got to Buffalo you could sign a final version?

A. No, sir.

Q. He didn't tell you that?

A. No, sir.

Q. Now, what else did you do in Sergeant Koponen's office, with Sergeant Koponen at his office, if you can remember?

A. Signed that sheet you have on top.

Q. Government Exhibit Number 12?

A. Yes.

Q. All right. Take a look at that, would you, please.

A. Yes, sir.

Q. Mr. Kasperek, this one you signed, did you not, at the Buffalo Office?

A. No, sir. I am fairly sure I signed that at the Hamburg office.

Q. Well, let me have you look at the back of it and that is your signature on there?

A. Yes, sir.

Q. And there is a signature of a recruiting service representative?

A. Yes, sir.

Q. Is that Sergeant Koponen's signature, if you can tell?

A. I can't tell, sir.

Q. Was there somebody else in Hamburg that day that signed that?

A. No, sir.

Q. But you did sign it?

A. Yes, sir. That's when I brought up about mechanical-electrical.

Q. Okay. Now, it had been typed out for you in advance, is that right?

A. Yes, sir.

Q. And Sergeant Koponen asked you to read it over?

A. Told me to look it over and he told me where to sign it.

Q. And I think you said, sir, that he told you to look it over?

A. Yes.

Q. And you looked it over real quick?

A. Yes.

Q. Did you read it?

A. Just looked it over, glanced through it.

Q. You said you looked it over. Did you read it?

A. Some of it, yes.

Q. You read the words?

A. Some of them, yes.

Q. Now, Sergeant Koponen had typed in that you are enlisting in the Marine Corps and "After I successfully complete recruit training" you will be assigned to the ground sub-program and he has typed in the words "mechanical-electrical"?

A. Yes, sir.

Q. And then it says "I understand that everything on this page applies to me", is that right?

A. Yes, sir.

Q. And then there are paragraphs that have a lot of different jobs on there?

A. Yes, sir.

Q. And one of them you picked, is that right?

A. This is where he told me to sign.

Q. That is Paragraph "E"?

A. Yes, sir.

Q. And that is called "ground sub-program, mechanical-electrical"?

A. Yes, sir.

Q. And you initialed that?

A. Yes, sir.

Q. And that was your understanding of what job you were signing up for, isn't that right?

A. And what Sergeant Koponen said mechanical-electrical covered bulk fuel.

Q. Okay, and then on the back there are some things about how long you are signing up for?

A. You had to sign up for four years to get a guaranteed job.

Q. And you wrote the figure "4" in?

A. Yes, sir.

Q. And that was your understanding?

A. Yes, sir.

Q. And isn't it true that when you asked Sergeant Koponen what "mechanical-electrical" meant, he told you that it meant either utilities, construction, equipment - -

A. No, sir.

Q. Well, isn't that what it says on there?

A. Yes, sir.

Q. Did you see that?

A. I just looked through it.

Q. Well, when you looked through it, did you look at the words?

A. No.

Q. You didn't look at the words?

A. I trusted Sergeant Koponen.

Q. And he told you that bulk fuel was included in that ground sub-program?

A. Yes, sir.

Q. And that was one of many other things in addition to

equipment and explosive ordinance disposal and others, is that right?

A. That's right.

Q. That is what he said to you, isn't it?

A. Yes, sir.

Q. Now, after that, you went home and the arrangement was that you would actually go to Buffalo and be sworn in, isn't that right?

A. Yes, sir.

Q. And you did that, you went home?

A. Yes, sir.

Q. And then Sergeant Koponen picked you up in his car or a Marine Corps car?

A. Yes, sir.

Q. And he drove you to Buffalo?

A. Yes, sir.

Q. And when you got to Buffalo, there were a lot of people there, isn't that right?

A. Yes, sir, - not a lot.

Q. A lot of other recruits, let's say, a dozen or so recruits?

A. Maybe a few less.

Q. And do you know, Mr. Kasperek, that there was only one other that was a Marine that day with you?

A. That day?

Q. Do you have any knowledge about that?

A. No, sir.

Q. Well, did you find out that a lot of those people were other services, Army, Navy, Marines?

A. Yes, sir.

Q. So they weren't all Marines?

A. No, sir.

Q. And after you got there, you were asked to fill out some more papers?

A. Yes, sir.

Q. Can you tell me about that?

A. I don't remember all the papers.

Q. Can you remember about any of them?

A. Not really.

Q. Do you recall seeing a fellow by the name of Captain Carras?

A. Yes, sir, he swore us in.

Q. And Captain Carras also had you sign an enlistment contract, do you recall that?

A. No, sir.

Q. Do you recall someone else there asking you to sign an enlistment contract?

A. There was a lot of stuff I signed and I don't know which is which.

Q. I show you Government Exhibit 9 and have you look at

that, sir, and I will ask you if you see your name on there.

A. Yes, sir.

Q. And you signed it?

A. Yes, sir.

Q. And that was signed at the office in Buffalo?

A. Yes, sir.

Q. Do you remember that now?

A. This here.

Q. And I will ask you to look at Paragraph 54 and it has some writing there, it says, "Ground Sub-Program, Mechanical-Electrical only"?

A. Yes, sir.

Q. And that has been written in, hasn't it, sir?

A. Yes, sir.

Q. Is that your signature or your handwriting?

A. Looks like it.

Q. Do you remember writing that in?

A. Not really, no.

Q. You don't recall that?

A. No, sir.

Q. But it is your handwriting?

A. Yes, sir.

Q. And you signed it?

A. Yes, sir.

Q. Do you recall, Mr. Kasperek, talking to Captain Carras about going into the Marine Corps and he asked you if you were ready for it?

A. No, sir.

Q. You don't recall that?

A. No, sir.

Q. And having a little meeting with him?

A. No, sir.

Q. Where Captain Carras went through what your obligations were and explained the number of years?

A. That was explained before I went up there.

Q. Yes, but he explained that to you again, he asked you if you had any questions and he went through this particular document and you signed your name and Captain Carras had you write that in and sign your name, do you recall that?

A. No, sir.

Q. Do you recall Captain Carras explaining to you that you were signing up only for a particular group of jobs and not a specific job?

A. No, sir.

Q. You don't recall that?

A. No, sir.

Q. Do you recall talking to Captain Carras at all at that time?

A. No, sir, just for the swearing in.

THE COURT: Do you know Captain Carras? Would you know him if he came in the courtroom?

THE WITNESS: Yes, sir.

THE COURT: You say you do not remember talking to him on that day?

THE WITNESS: No, sir.

BY MR. WAGNER:

Q. I show you, Mr. Kasperek, what has been marked as Government Exhibit 10, and that is just like the other one you just had and that one is a carbon copy, but I will ask you to look at the carbon signature and ask you if that is your signature too?

A. Yes, sir.

Q. Okay, and that was also signed at the Buffalo office, is that correct?

A. Yes.

Q. And I will ask you to look and see whether or not you can tell whether you have written anything in there in Paragraph 54?

A. Yes, sir.

Q. Do you recall when you signed that?

A. No, sir.

Q. And that was March 26th, is that 1975 also?

A. Yes, sir, that's when I signed all the papers.

Q. And can you tell what you wrote in there, sir, by looking at the carbon?

A. "Sub-Program Mechanical-Electrical".

Q. And it says, - the typing says, "I have had this contract fully explained to me. I understand it and certify that no promise of any kind has been made to me concerning assignment to duty, geographic area, schooling, special assignment of Government quarters or transportation of dependents except as indicated", and you then wrote in your own handwriting "Sub-Program, Mechanical-Electrical only"?

A. Yes, sir.

Q. Was that contract explained to you?

A. Not that I know of.

Q. Did anybody ask you about it?

A. No, sir.

Q. Do you recall them asking you if you had any questions?

A. No, sir.

Q. And then, Mr. Kasperek, you took a little physical?

A. Yes, sir.

Q. A brief physical and passed?

A. Yes.

Q. And you were sworn in by Captain Carras?

A. Yes, sir.

Q. And then you were told to go home?

A. Yes, sir.

Q. And it was your understanding that you were going to report for boot camp at a specific date in September?

A. Yes, sir.

Q. And that was given to you?

A. Yes, sir.

Q. And it is true that you went home and over the summer, Sergeant Koponen maintained some contact with you?

A. Yes, sir.

Q. And he asked you if you would be interested in bringing in more recruits?

A. Yes, sir.

Q. And he explained if you brought in recruits, you would wind up with another assignment, perhaps in boot camp, or a little more status?

A. Yes, sir,

Q. A higher rank than the others?

A. Yes.

Q. And you, in fact, tried to do that?

A. Yes, sir.

Q. You asked your friends about it?

A. Yes, sir.

Q. And it is also true, isn't it, that you were concerned

A. Yes, sir.

Q. And you talked to Sergeant Koponen about that several times?

A. Yes, sir.

Q. At least once?

A. Yes, sir.

Q. And it is true, isn't it, that you had some friends that you knew or people you knew at boot camp that you were afraid might cause you some trouble?

A. I wasn't afraid they would cause me trouble.

Q. Well, did you talk to Sergeant Koponen about that, about some people you knew at boot camp?

A. No, sir.

Q. You don't remember that?

A. No, sir.

Q. Do you recall, Mr. Kasperek, talking to Sergeant Koponen about whether or not some friends of yours at boot camp or some acquaintances of yours who were presently in boot camp would be able to look you up or find out where you were?

A. Never talked about nobody I knew was in the service then, not in the Marine Corps.

Q. And then there came a time in September that you actually came in and took the oath, is that right?

A. Yes.

Q. You took an oath, an active duty oath?

A. Yes, sir.

Q. And you were sent to Paris Island?

A. Yes, sir.

Q. And you received the training that everybody else got?

A. Yes, sir.

Q. And then a few days before the training ended, you were given a permanent or a semi-permanent orders as to where you were to report?

A. They were permanent orders.

Q. And you were told then that you would have a few days off?

A. Ten day leave.

Q. Ten day leave?

A. Yes.

Q. You were given some money?

A. Yes, sir.

Q. And you were told to go wherever you wanted to, but to be back at Camp LeJune on a certain date?

A. Yes, sir.

Q. And at that time, the orders you got indicated that you were in the mechanical-electrical field?

A. Yes, sir.

Q. And there was a number on there and you didn't know

what it meant?

A. Yes, sir.

Q. And so some other fellow with you, some other Marine - -

A. There was a whole room full of recruits.

Q. Somebody asked a question and you found out that number meant that you would be in the motor transport area?

A. Yes, sir.

Q. And that was driving trucks and repairing them and maintaining them?

A. Yes, sir.

Q. And you were not happy with that?

A. No, sir.

Q. So you came home on leave?

A. Yes, sir.

Q. Did you talk to Sergeant Koponen at all at that time?

A. No, sir.

Q. Did you talk to anyone at that time about it?

A. No, sir.

Q. While you were home on leave?

A. No, sir.

THE COURT: You say when you came home, you did not talk to Sergeant Koponen?

THE WITNESS: No, sir.

BY MR. WAGNER:

Q. Okay, and then after the ten days you went back to Camp LeJune?

A. Yes, sir.

Q. And you began some kind of a schooling or training for that particular - -

A. Schooling started in January.

Q. What did you do at Camp LeJune when you got back and when would that have been?

A. I got back December 11th. For the first weekend we weren't assigned to a permanent platoon and we just went in town and then that Monday we were assigned to our platoon. I was assigned to the second tank battalion, motor transport.

Q. And that was a few days after December 11th?

A. Yes.

Q. And then how many weeks were you where before you had a Christmas break?

A. About a week and a half, two weeks.

Q. And what did you do in that week and a half?

A. We went down to the motor pool and we just watched everybody else that was in there.

Q. You were just an observer?

A. Right.

Q. And did you talk to anybody during that time period

about this job you got?

A. No, sir.

Q. And did you talk to your mother about that?

A. No, sir.

Q. Or your father?

A. No, sir.

Q. Or Sergeant Koponen?

A. No, sir.

Q. And then you got a Christmas break?

A. Yes, sir.

Q. Do you recall when that started and when it ended?

A. It started on the 27th of December and it ended the 7th of January.

Q. Okay. Now, you came home for Christmas?

A. Yes, sir.

Q. And did you talk to Sergeant Koponen during the Christmas break about your job?

A. No, sir.

Q. Did you talk to anybody?

A. No, sir.

Q. And then you went back to Camp LeJune after your Christmas recess?

A. Yes, sir.

Q. And you got back down there about the 7th of January?

A. Yes, sir.

Q. Did you talk to anybody at that time about your job, on the 7th?

A. No, sir.

Q. What did you do with respect to your training then? Did you start training then?

A. Well, it wasn't until about the 15th or so that we started school, about the 12th we started school.

Q. What did you do between the 7th and the 12th, any job work?

A. Just went down to the motor pool and looked around.

Q. And that was part of a pretraining, so to speak?

A. Yes.

Q. Did you talk to anybody during that period of time about your job assignment?

A. No.

Q. And then you started training about the 12th of January?

A. Started school.

Q. What was that, what did that involve?

A. Driver safety, maintenance and just mainly driver safety and the proper way to drive a truck.

Q. Was it a classroom or was it in a garage somewhere?

A. Like a classroom.

Q. And did you talk to anybody that first day of training about your dissatisfaction with your job?

A. No, sir.

Q. And then you had a couple of days of training and then on January 16th, you left the base without permission?

A. Yes, sir.

Q. And your reason for leaving was you were dissatisfied with your job?

A. Yes, sir.

Q. Now, when you left on the 16th, up to that point, had you talked to anybody in the Marine Corps about this dissatisfaction?

A. Talked to the career planner.

Q. When was that?

A. It was right after I started school. I think it was the day I left because I had to go to Traffic Court that morning.

Q. That was on the 16th?

A. Yes, I had to go to Traffic Court on base.

Q. For some traffic ticket or something you got?

A. They called it unauthorized entry.

Q. You know what they meant by that?

A. The sticker on the window was expired and I talked to the career planner after that and he said that he couldn't do nothing.

THE COURT: The career planner told you what?

THE WITNESS: He couldn't do nothing about the

"MOS".

THE COURT: The career planner, do you remember his name?

THE WITNESS: No, sir.

THE COURT: Was he an officer or an enlisted man?

THE WITNESS: He was an officer.

THE COURT: What is a career planner supposed to do, do you know?

THE WITNESS: They are supposed to help with "MOS" and problems that you have.

THE COURT: Go ahead.

BY MR. WAGNER:

Q. You talked to him. Do you recall what time of day it was you talked to the career planner?

A. No, sir.

Q. Did you actually go to the Traffic Court?

A. Yes, sir.

Q. What happened there?

A. They put three points against me, on my driving record.

Q. And I take it that naturally, as it would anyone, made you a little upset?

A. No.

Q. Didn't bother you at all?

A. That was just for driving on base. It didn't go on my license.

Q. Did it anger you at all when you got those points?

A. Yes, it did.

Q. And then shortly after that, within an hour or so that you left the base?

A. Well, until my friend got out of school.

Q. And you took off with some friend?

A. Yes, sir.

Q. Who was that?

A. Lawrence Mottler.

Q. In fact, Mr. Mottler had been with you from the very first day of boot camp, had he not?

A. Yes, sir.

Q. And you were good friends with Mr. Mottler?

A. Not good friends, just friends.

Q. Had you planned to leave base that day?

A. No, sir.

Q. How did you explain to Mr. Mottler what your intentions were?

A. Just asked him if he wanted to go home.

Q. And what did he say?

A. "Yes."

Q. And what did you do?

A. We left.

Q. How did you leave?

A. I had a car.

Q. Where did you go?

A. Home, all the way to Lackawanna.

Q. Do you know where Mr. Mottler's home is?

A. No.

Q. You know it is not in Buffalo?

A. It is not in Buffalo.

Q. It is in Rochester?

A. I don't know, maybe.

Q. Well, did Mr. Mottler come back to Buffalo or did you take him someplace else?

A. He got a bus.

Q. You dropped him off here in Buffalo?

A. Yes.

Q. And when you got home, what did you do when you got home?

A. I told my father I was home on leave and started calling my friends.

Q. Did you talk to Sergeant Koponen at that time?

A. No.

Q. Did you tell your parents that you were dissatisfied with your job and you had left without permission?

A. No, sir, I didn't want to worry them.

Q. And then after a few days at home, you went back to the

Marine Corps?

A. Yes, sir.

Q. That was about four days later?

A. Yes, sir.

Q. Why did you go back four days later?

A. To get paid.

Q. You were running out of money, weren't you?

A. Yes, sir.

Q. And you had to go back down there to get your check?

A. Yes, sir.

Q. So you went back down on the 20th of January?

A. Yes, sir.

Q. You drove back to Camp LeJune in your car?

A. Yes, sir.

Q. Did anybody go with you then?

A. Larry.

Q. Mr. Mottler?

A. Yes. I picked him up at the bus station.

Q. Had you made some plans to go back?

A. Yes, sir.

Q. When did you make those plans?

A. On the way home.

Q. You planned to go home for four days and go back on the 20th?

A. Yes, sir.

Q. Because you would need money and you knew your check would be there at that time?

A. Yes, sir.

Q. Was it also your plan when you went back on the 20th to immediately leave again after getting your check?

A. No, sir.

Q. What was your plan?

A. To stay.

Q. But that is not what happened, is it?

A. No, sir.

Q. You went back on the 20th?

A. Yes, sir.

Q. And you picked up your check first?

A. Yes, sir.

Q. What about Mr. Mottler?

A. He grabbed his too.

Q. And what did you do after you picked up your check?

A. We walked back to the squad bank and then the platoon sergeant came up as soon as we came in.

Q. And he knew you had been missing, didn't he?

A. Yes, sir.

Q. And he reprimanded you for having left without permission?

A. Yes, sir.

Q. And they took you in and they told you that you

shouldn't have done it, isn't that right?

A. Yes, sir.

Q. In official Marine language or unofficial Marine language?

A. A little unofficial.

Q. And they used some words that maybe we don't hear in court, but I take it that was not an unusual kind of language to hear in Marine boot camp?

A. No, sir.

Q. And it didn't shock you or offend you?

A. No, sir.

Q. And you complained to them that you had left because you didn't like your job?

A. Yes, sir.

Q. And they told you at that time that there was nothing they could do about it?

A. Yes, sir.

Q. And so you left again, didn't you, that same day?

MR. MACEK: Objection. I think at that point it is irrelevant whether he left at that point or a particular point. There are self-incrimination problems at this point, your Honor.

THE COURT: It has to do with the whole problem. Arguably, perhaps, it indicates whether, -

I suppose you could argue they said, "No, the 'MOS' is that", and if he left, I suppose it could be argued either way. We will hear it.

MR. MACEK: I would like my client to take the Fifth Amendment as to the particular, any particular questions as to his leaving on that date, your Honor. I am worried about the possibility of prosecution against him for being absent without leave should this suit result in his going back.

THE COURT: Very well.

BY MR. WAGNER:

Q Well, Mr. Kasperek, let me ask you this and Mr. Macek can object if he wants to, you then left the Marine Corps that day, is that right?

MR. MACEK: Same objection, your Honor.

THE COURT: You object. All right, I will sustain it.

BY MR. WAGNER:

Q I will keep asking and perhaps Mr. Macek can find one that he likes. You didn't stay with the Marine Corps

thereafter, did you, sir?

A. No.

MR. MACEK: That's okay.

BY MR. WAGNER:

Q. You no longer maintained your connection with the service in any active sense?

A. No, sir.

Q. And you haven't since then, is that right?

A. Since then.

Q. Have you ever talked to Sergeant Koponen since about this problem?

A. No, sir.

Q. And other than consulting Mr. Macek, have you ever talked to anyone in the Marine Corps about, - let us say up until then, up until you contacted him?

A. No, sir.

Q. When was it that you saw Mr. Macek, approximately?

A. Beginning of May.

Q. So from January to May, you didn't talk to anybody else in the Marine Corps?

A. No, sir, except maybe my cousin. He was home on leave at the time.

THE COURT: Before we break, Mr. Kasperek, there

are two things. During the same period you were talking to the Sergeant about entering the Marine Corps, you were also having discussions with other services?

THE WITNESS: Yes, sir. I was going to try to get into the Air Force, but with my record and having no high school diploma, they decided to turn me down.

THE COURT: You did talk to them?

THE WITNESS: Yes, sir.

THE COURT: But they said because you didn't have a high school diploma, they could not consider your application?

THE WITNESS: That plus the police record.

THE COURT: You also talked to some of the other services?

THE WITNESS: No, sir, just the Air Force and the Marine Corps.

THE COURT: Air Force and Marine Corps, all right. When you were down at Camp LeJune you had an automobile?

THE WITNESS: Yes, sir.

THE COURT: When did you buy the car?

THE WITNESS: When I came home for leave from boot camp.

THE COURT: Did you have a car when you were working out at the Hamburg Race Track?

THE WITNESS: Yes, I did.

THE COURT: Did you buy that car on time?

THE WITNESS: In time?

THE COURT: On time. In other words, did you have to pay a bank or finance company?

THE WITNESS: Just the last car I had I had financed through my father's credit union.

THE COURT: Did you have to sign any documents or did he sign the documents?

THE WITNESS: I did. I took the loan out.

THE COURT: When you took the loan out, you had to promise to pay - -

THE WITNESS: Yes, sir.

THE COURT: So much a month?

THE WITNESS: Yes, sir.

THE COURT: You signed some documents when you did that?

THE WITNESS: Yes, sir.

THE COURT: You knew that it was important what you signed when you signed those documents, didn't you?

THE WITNESS: Yes, sir.

THE COURT: You knew that it said in the writing

there that you would have to pay so much a month and it would be your obligation to make those payments?

THE WITNESS: Yes, sir.

THE COURT: When you saw the writing there which is on Exhibit 12 about what your assignment would be in the Marine Corps, didn't you think that writing was important?

THE WITNESS: Yes, sir.

THE COURT: Weren't you concerned that you would be bound by the writing if you signed that document?

THE WITNESS: Yes, sir, but I thought what Sergeant Koponen told me, I would get into bulk fuel, so I trusted him and I signed it.

THE COURT: After that, however, keeping in mind your concern about what it said in writing and which appeared to be in conflict with what the sergeant had said to you and when you met Captain Carras and the others, didn't you say something to them about the conflict?

THE WITNESS: No, sir.

THE COURT: You never talked to, although you

did not get the assignment that you say now that Sergeant Koponen promised it to you, that on no occasion when you came home after you received that disappointing news that you were going to get another job, did you talk to Sergeant Koponen?

THE WITNESS: No, sir. I didn't want nothing to do with him.

THE COURT: You were trying to get your "MOS" changed?

THE WITNESS: That was down on base, first out of boot camp, to see if I could get it changed.

THE COURT: If, in fact, he made this promise to you, don't you think he would have had the obligation to do whatever was necessary to get the matter straightened out?

THE WITNESS: Yes, sir.

THE COURT: But nevertheless, you did not talk to him?

THE WITNESS: No, sir.

THE COURT: We will be in recess until 2:00 o'clock.

(Recess taken at 1:00 p.m.)

* * * * * *

PROCEEDINGS: July 15, 1976, 4:05 p.m.

APPEARANCES: As before noted.

THE COURT: When we left this morning Mr. Kasperek was on the stand.

MR. MACEK: Yes, your Honor.

THE COURT: I suppose there will be some further questions. Any other questions of Mr. Kasperek?

MR. WAGNER: I don't now, Judge. Mr. Macek, I understand, wants to redirect.

MR. MACEK: I have a few questions on redirect.

THE COURT: Mr. Kasperek, take the stand, please.

R I C H A R D E. K A S P E R E K, the plaintiff herein, having been previously duly sworn as a witness in his own behalf, resumed the witness stand and testified further as follows:

REDIRECT EXAMINATION BY MR. MACEK:

Q Mr. Kasperek, Mr. Wagner asked you earlier about whether you had seen any representatives of the Marine Corps since your last occasion to be at Camp Lejeune and I want your answer to be clear on the record. Have you seen any representatives of the Marine Corps in the last

few months?

A. No, sir.

Q. Even after you had spoken with me?

A. I haven't seen anyone from the Marine Corps.

MR. WAGNER: Excuse me, what was the answer?

THE COURT: "I haven't seen anyone from the Marine Corps".

BY MR. MACEK:

Q. Even locally in Buffalo?

A. No, sir.

Q. One last question. Would you have enlisted in the Marine Corps if you had not believed that you would have gotten the bulk fuel aircraft job?

A. No, sir.

MR. MACEK: I have no further questions, your Honor.

RECROSS EXAMINATION BY MR. WAGNER:

Q. Mr. Kasperek, if Sgt. Koponen had told you, sir, that you would be eligible for a variety of jobs considering the fact that you had a job you did not like and you did not have a high school diploma, are you telling us that you would not have considered enlisting in the Marine Corps even under those circumstances?

A. No, sir.

MR. WAGNER: I have nothing else.

THE COURT: Nothing further. Any further questions?

MR. MACEK: No, your Honor.

THE COURT: Any other witnesses?

MR. MACEK: I have one more witness, your Honor.

THE COURT: All right.

MR. MACEK: I call Edwin Palczewski.

* * * * * * * * *

E D W I N P A L C Z E W S K I, JR. (72 Newman Street, Lackawanna, New York), a witness called by and in behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION BY MR. MACEK:

Q. Mr. Palczewski, I am sorry, would you pronounce your name again for me so I say it right?

A. Palczewski, it doesn't make any difference.

Q. Have you had occasion to be in the Marine Recruiter's Office in Hamburg?

A. Yes, I have.

Q. And can you tell me the first time you were there?

A. The first time I was there, I believe - -

THE COURT: Mr. Palczewski, keep your voice up, please.

THE WITNESS: The first time I was there was in September, I believe.

BY MR. MACEK:

Q. September of - -

A. '74.

Q. And how did you happen to have occasion to be there?

A. I went with Rick Kasperek.

Q. And who did you meet there?

A. We met a Sgt. Keist and Koponen.

Q. Were you considering enlisting at that point?

A. At that point, no, I wasn't. I had an open mind about it but I wasn't thinking about enlisting.

Q. Did you have any conversation with Sgt. Koponen at that point?

THE COURT: Mr. Macek, could you keep your voice up too, please?

MR. MACEK: Yes, your Honor. I am sorry.

THE WITNESS: Pardon?

BY MR. MACEK:

Q. Did you have any conversation with Sgt. Koponen at that

point?

A. About joining the service?

Q. Yes.

A. No.

Q. Did you have any conversations with him about signing up at any later point?

A. Yes, later on.

Q. And when did those occur?

A. Well, I believe after Rick signed up, - it wasn't the same day but it was soon after that, they tried to get us to go in, I believe the buddy plan or the buddy system. Shall I continue?

Q. Yes, go ahead.

A. He told me that I could join, leave the same day, go through the same training and receive the same thing, bulk fuel, in the same area.

Q. And this was during the period after Mr. Kasperek had signed up but before he left?

A. Yes.

Q. Across that summer?

A. Right.

Q. Before Mr. Kasperek had signed up in March, had you had occasion to be at the Recruiting Office?

A. Several times.

Q. And what was your occasion for being there at those times?

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A. Well, I just went up with Rick, you know. He would ask me, told me he was going there and I would just go up with him.

Q. And what occurred at these times you were there?

A. Oh, everytime I went I got a big stack of brochures and bumper stickers and a lot of conversation about the Marines.

Q. Were there any particular events scheduled for the times you went in?

A. One time, we went to talk to a recruit fresh out of boot camp. I believe that was in about January, I think.

Q. Do you recall the time at which Mr. Kasperek signed up to, - or for the Marine Corps?

A. Yes.

Q. And how do you know that he signed up?

A. Because I was there. I watched him.

Q. And about, - well, how did you happen to go up there that day?

A. Well, he told me he was going to go down there and he asked me to go with him because I was one of his closest friends and I went down there with him.

Q. And what happened at that time?

A. Well, we went down there and, you know, I was looking through a lot of different material while Rick was talking

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to him and when it came to signing the papers there was a little disagreement over the contract.

Q. At this particular point in time, how many times were you there?

A. Had I already been there?

Q. No, at this point in time, when he was signing up, how many times, did you make just one visit or - -

A. More than one.

Q. Would you know the dates of those?

A. Of all of them, no, or the day he signed, I know the date, March 26th.

Q. Would you tell us, to the best of your recollection, what occurred on that day?

A. Well, we went down there. It was early in the morning. I don't know what time, say maybe 10:00 or 11:00. We went down there and was talking to the recruiter and I was looking through this reading material and Rick was conversing with him about, you know, joining up and everything, asking different questions.

Q. Did you, - what conversation did you hear between Mr. Kasperek and Sgt. Koponen?

A. One that really caught my attention was when Rick went over and he asked what was mechanical - - electrical. He thought he was going into bulk fuel, and the recruiter reassured him and said "You will go into boot camp and

A. On the 25th?

then after your boot camp, you can go into bulk fuel because bulk fuel if part of mechanical-electrical", so - -

Q. And did the conversation go any further after that, that you recall?

A. I don't really recall. I was sidetracked a lot. There were different recruiters there.

Q. Aside from the times that you have mentioned that you went up to see Mr., - or to the Recruiting Office with Mr. Kasperek, did you have any other contact with Sgt. Koponen?

A. None. Oh, excuse me. One time at Rick's going away party, just before he left, he was there. I didn't talk to him. I didn't really associate with him but I knew he was there. I saw him there.

MR. MACEK: I have no further questions.

THE COURT: All right, Mr. Wagner.

CROSS EXAMINATION BY MR. WAGNER:

Q. Mr. Palczewski, when you first went in with Mr. Kasperek, - first of all, sir, if I may ask you this, what your age is?

A. I am eighteen.

Q. You are eighteen now?

A. Yes, sir.

Q. And what is your occupation now, sir?

A. I am a machine operator.

Q. In the Buffalo area?

A. Yes, on Seneca Street.

Q. And how about school, have you finished school?

A. I graduated from high school last year.

Q. Now, how long have you known Mr. Kasperek?

A. Well, I have known him since about 5th or 6th grade, I would say, so that would make it about 7 years, 8 years.

Q. You were school mates together?

A. Yes.

Q. Or friends during that period of time?

A. Yes.

Q. Had you, at the time Mr. Kasperek first got interested in the Marines, did you at that time, have any interest in the Marines yourself?

A. Well, like I told Mr. Macek, I had an idea, you know, an open mind about it but I didn't go there planning on joining.

Q. But you went along with Mr. Kasperek and it was your understanding at the time, that he had an interest?

A. Yes.

Q. Was there anyone else with you when you first went in with him? Do you know if his uncle was with you or his cousin?

A. Among the three of us really

A. I didn't go with them. Well, let me rephrase this. The first time I went there, I don't know if it was the first time he went there.

Q. Okay. Well, from your conversation with him, do you know if he had already been in with his uncle and cousin to see the Marines at that point, at the point you went with him?

A. Yes.

Q. So your meeting was after his meeting with them?

A. Right.

Q. And you don't know what was discussed at the meeting he had with the Marines and his uncle and cousin?

A. No.

Q. Now, I take it Mr. Kasperek talked to you about his interest in Marine Corps, isn't that right?

A. Yes.

Q. Because obviously he was going to the recruiting office?

A. Yes.

Q. And in fact he told you, did he not, that he had an interest in enlisting in the Marine Corps?

A. Yes.

Q. And that was your reason for your visits there?

A. Yes.

Q. When you went there in September, what was the purpose of going over there?

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A. What, for me?

Q. No, for Mr. Kasperek, if you know?

A. The purpose in going, like I just said, I take it he was considering joining.

Q. Well, would he just sit in the office and think about it or would he go for the purpose of - -

A. No, he would ask questions.

Q. He would ask the recruiter questions?

A. And took a few tests.

Q. And the recruiter, if you know, sir, the recruiter would answer the questions?

A. If he could.

Q. In other words, they would go and discuss the Marine Corps?

A. Yes.

Q. The types of things he would do, the type of life he would have, the pay, things like that?

A. Yes.

Q. And they would talk about it?

A. Yes.

Q. And about how many meetings that you know of or that you were present at did Mr. Kasperek and the Marine Recruiters have?

A. Are you asking how many times I was there with him?

Q. Yes, how many times were you at meeting where Mr. Kasperek

was also there and the recruiters were there, as best you can estimate?

A. Maybe at least 6 or 7.

Q. Okay, and that started in September of '74 and when is the end point of that 6 or 7 meetings that you are talking about?

A. The last time I was there?

Q. Right. Would that have been on March 26th when he enlisted?

A. No. I believe I was there once or twice after that.

Q. Okay, so it is fair to say then that between September and March, - September of '74 to March of '75, you and Mr. Kasperek and the Marine recruiters were together at least 4, maybe 5 times?

A. Yes.

Q. And I take it, sir, the purpose of these meetings was again for Mr. Kasperek's benefit rather than yours, isn't that right?

A. Right.

Q. You were just there as a friend?

A. Right.

Q. And I take it again at these meetings, Mr. Kasperek and the recruiters would discuss the Marine Corps?

A. Well, yes, but not totally.

Q. They weren't meeting for any other purpose?

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A. No.

Q. They were meeting for that purpose only?

A. Yes.

Q. Can you give me an idea of how long these meetings might last?

A. It varied.

Q. What was the span of times?

A. Sometimes we go there and just stay for a half an hour and sometimes we stayed longer.

Q. How long is the longest one, as best you can recall? I realize you wouldn't know exactly, but what is your best estimate of how long the longest meeting was?

A. The longest I was there was maybe an hour or an hour and a half.

Q. And I take it during that hour and a half it was mostly a conversation between Mr. Kasperek and the recruiter?

A. Yes.

Q. Were you taking an active part in the conversations?

A. Occasionally.

Q. Well, would it be fair to say that it was primarily a conversation between those two gentlemen rather than you being one of them?

A. Yes.

Q. And again, they were discussing the types of jobs available in the Marine Corps, the type of pay, type of duty,

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all of those things?

A. Yes.

Q. Is that right, sir?

A. Yes.

Q. Now, did you have any particular knowledge about the Marine Corps yourself or any other friends or family memebers?

A. Not really, just what I hear and pick up.

Q. In other words, your father or brother or close friends not a Marine?

A. No.

Q. Did you, sir, know anything about bulk fuel, that term?

A. Just what Kasperek would tell me.

Q. You had no other source of information about that term?

A. No.

Q. So when Mr. Kasperek talked about bulk fuel, you got all your information on that from him?

A. Yes.

Q. And do you recall the recruiter and Mr. Kasperek talked about bulk fuel?

A. I know they talked about it, but like I said, I never really - -

Q. You didn't pay that much attention?

A. No, because I didn't have that much of an interest.

Q. Mr. Palczewski, I take it, it would be fair, sir, to say

that in these five or six meetings you had which lasted at least a half an hour and no more than an hour and a half, other things were discussed in addition to the word "bulk fuel", isn't that right?

A. Oh, yes.

Q. Do you recall if other job occupations were discussed?

A. Yes. At one time, he even talked to me about what I could get into.

Q. And when you say "he", you mean the recruiter?

A. The recruiter.

Q. What did he talk to you about, what kind of jobs?

A. Well, first I took an aptitude test and he didn't really specify anything. He talked about putting me in bulk fuel, the same thing with Rick.

Q. What did he say to you about bulk fuel? In other words, did he say to you, "I can put you in bulk fuel", or did you discuss it?

A. No, we didn't discuss it. My only source of information was Rick.

Q. Okay. What did he say to you about bulk fuel?

A. He just told me, - he didn't say "bulk fuel". He told me, he said he could put me into the same thing that my friend was in.

Q. Did he tell you or did anyone ever tell you that that was the mechanical-electrical area of the Marine Corps

duties?

A. No.

Q. Were you, - when you were in there, did you ever look through those brochures that were available?

A. Some of them, yes.

Q. I just happen to have one here, sir. Government's Exhibit Number 1 it is marked. Will you take a look at that and see if that is one of the ones you saw?

A. I believe I have this one at home.

Q. Okay, and did you look through that at all?

A. Just flipped through it occasionally, reading parts here and there.

Q. And you realized that is a book describing the types of occupations that a Marine Corps Recruit might have, right?

A. Yes, sir.

Q. And it is fair, isn't it, sir, to say that that book contains a hugh variety of occupations?

A. Yes.

Q. Everything from being a baker to a mechanic to a pilot to doing electronic work and administrative work, clerical work?

A. Yes.

Q. Is that right?

MR. MACEK: Objection. Mr. Wagner can speak

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about that in summation if he wants to, but there is no showing he has looked through it with the exhaustiveness Mr. Wagner has.

BY MR. WAGNER:

Q. Well, do you recall looking through it with that exhaustiveness?

A. No.

Q. When you saw the book, didn't you realize that there were a wide variety of jobs available to you in the Marine Corps?

A. Yes.

Q. And as a matter of fact, it is fair to say, is it not, that that was one of the factors that would make the Marine Corps attractive to you, isn't that right?

A. It would.

Q. And did you and Mr. Kasperek, after these meetings, or before these meetings, discuss his possible enlistment in the Marine Corps?

A. Yes.

Q. And do you ever recall having conversation with him about what kinds of things he might be doing, what kind of experiences he might be having?

A. No. Our conversation was mostly pointed to when he got

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out of boot camp if it would be possible for me to get down there. We were pointing more to still being friends after he got out of boot camp.

Q. You mean you as a non-Marine, getting down to see him after he was in?

A. Yes.

Q. Did Mr. Kasperek ever tell you what his intentions were about the kind of work he would be doing?

A. Yes, he did.

Q. What did he tell you about that?

A. Well, he told me that he would be a lot into figures, figuring fuel and weight of airplanes, a lot in that area.

Q. And when did he tell you that?

A. After he had signed.

Q. Okay, and yet you never, in your conversations with him, and the recruiter, ever heard the recruiter talk about airplanes or figures, is that right, isn't that what you said?

A. Not to my recollection.

Q. That all came from Mr. Kasperek's mind, not from the recruiter's mouth?

A. That I wouldn't know.

Q. Well, at least as far as those meetings where you were present?

A. As far as I know.

Q. Right. Now, when Mr. Kasperek decided to enlist in March, did he tell you about that in advance?

A. No, not really.

Q. Well, how was it that you happened to be at the recruiting station that day?

A. He called me, picked me up and told me he was going down there and told me he was thinking about it.

Q. And if you can recall, was that March 25th, the day before he actually took the oath or was that on the 26th, the day he enlisted?

A. I believe it would be the 25th.

Q. It was the day before he enlisted?

A. Yes.

Q. Now, what did he tell you when he called you up on the phone?

A. He didn't call me up on the phone. He came over to my house.

Q. Okay. What did he tell you when he got to your house?

A. Well, he told me he was going up to see the Marine recruiter and he wanted me to go with him.

Q. Did he tell you, sir, at that time, why he was going to see the recruiter?

A. No.

Q. Did you talk to him about that on the way down?

A. Well, the only thing I told him was I didn't think it

MR. MACEK: Thank you, your Honor.

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was right for him but there was nothing I could do to stop him or to change his mind.

Q. Did he say anything to that?

A. No.

Q. And you went to the recruiting station?

A. Yes.

Q. Did you have any other conversations prior to that?

A. About - -

Q. About the Marines?

A. No.

Q. And when you got to the recruiting station, you mentioned that you sat in the room and you noticed that Mr. Kasperek and Sgt. Koponen, the same recruiter, were having conversation and handling certain papers?

A. Yes.

Q. Did you ever look at any of those papers yourself?

A. I looked but I never actually studied them.

Q. Other than to see the paper, did you see what was on the paper? Did you ever read the writing on it?

A. One of them

Q. Okay. Which one was that? Do you recall what it said?

A. It was on the 26th. It was the one he signed.

Q. We are still on the day of the 25th. Did you go back the next day too with Mr. Kasperek?

A. Yes. That's when he signed.

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Q. He signed something on the 25th and again on the 26th?

A. Yes.

Q. If you can recall?

A. Yes.

Q. Okay. The papers that he signed on the 25th, did you read those?

A. Not that I know of, what they were about, no.

Q. You don't know what they were about because you didn't read them, obviously?

A. Right.

Q. And I take it that that conversation Mr. Kasperek had with the recruiter concerning those papers you weren't concerned about?

A. Right.

Q. And you didn't pay any attention? You mentioned you were reading some books, is that right?

A. Right.

Q. And you were talking to other recruiters in the area?

A. Well, no. That was just there was a few offices there and people walking by and just little things.

Q. And the offices are fairly close. Did you ever go into any of the offices at that time?

A. No.

Q. Now, do you recall what Mr. Kasperek said to the recruiter at that time?

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A. On the 25th?

Q. Right, the first day you went down with him?

A. No, I wouldn't know.

Q. You don't remember anything that was said, and then there came a time you left the recruiting office, is that right?

A. Yes.

Q. Okay, and what happened, did you go back home?

A. I wouldn't know.

Q. Went out for a drink or something?

A. Yes.

Q. Did Mr. Kasperek tell you he had decided at that point to enlist in the Marine Corps?

A. No.

Q. Did you know that he had decided to enlist in the Marine Corps?

A. Later on. On the 25th I knew he was going to sign.

Q. How did you know that?

A. Because he told me.

Q. And he told you when, after this meeting?

A. He told me he was thinking about it and by the time we left - -

Q. But you knew he had been thinking about it since September?

A. Yes.

Q. So when did you find out he had actually decided to enlist?

leave that month and we also have productivity. That

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A. It was around the 25th when he started talking about it serious.

Q. And was it after the meeting with the recruiter?

A. I believe.

Q. As best you recall?

A. Yes.

Q. Okay, and you went out somewhere and then the next morning Mr. Kasperek went back to see the recruiter?

A. With me.

Q. You went back with him again?

A. Yes.

Q. And I take it you went along because you were his friend, is that right?

A. Yes.

Q. And tell me what happened at that meeting? This is the one where you went at about 10:00 or 11:00 in the morning?

A. Yes.

Q. Tell me what happened at that meeting?

A. We went there and I think there was more conversation about the Marines and I believe he signed one or two, - I don't know how many papers. I think there was a lot of little conversations, a lot of jokes cracked, you know, things of that sort.

Q. The conversations were among who, sir?

A. NO.

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A. Among the three of us really.

Q. Okay. Do you recall Sgt. Koponen talking to Mr. Kasperek about the experiences he should anticipate in the Marine Corps?

A. Yes, but what really caught my attention is when he objected to the mechanical-electrical on the paper.

Q. And who was that that objected?

A. Rick.

Q. Mr. Kasperek?

A. Right.

Q. Tell me what you heard and what went on then?

A. Well, he had asked the recruiter, - Mr. Koponen, if, - well, you know, he said, "What is this", you know. I don't remember his exact words, but "Why mechanical-electrical", when he had the idea he was going into bulk fuel and then the recruiter just kind of said, you know - -

Q. Well, tell me as best you recall, what he said. I know you wouldn't remember the exact language but - -

A. He told him he would have to go through boot camp and then he could work his way into bulk fuel because bulk fuel is part of mechanical-electrical.

Q. This is Sgt. Koponen?

A. Yes.

Q. Do you recall him telling him that bulk fuel was one of

many jobs available under the mechanical-electrical field?

A. No, but I would of thought he knew that.

Q. You would have thought who would have known that?

A. Rick.

Q. Now, you mentioned that there was a particular form that you saw. What form was that? Can you tell me about that?

A. The number?

Q. Well, can you describe what you saw on it? Maybe I am wrong, Mr. Palczewski. Did you at any time on these two days, examine any of these documents?

A. Closely?

Q. Well, close enough to remember what was on them?

A. If I saw them, maybe I would remember.

Q. Can you tell me what was on there, were pictures on there, printing, writing, numbers?

A. Printing and there was initials several times by Rick.

Q. I show you Government Exhibit 7. Is that one of them?

A. No.

Q. I show you Government Exhibit 9.

A. No.

Q. I show you Government Exhibit 10.

THE COURT: Mr. Wagner, it is evident that we are not going to be able to get, - I believe

you have some witnesses here.

MR. WAGNER: I do, Judge.

THE COURT: We will have to take your witnesses tomorrow.

MR. WAGNER: Very good.

THE COURT: Captain, if you want to be excused, or maybe you would just as soon stay, but I think we will have to suspend here after the testimony of this witness and return tomorrow morning and we could begin at, - I think we have some odds and ends, - at 9:00, but at 9:30 we will take the testimony. Does the Captain know your witnesses?

MR. WAGNER: Yes. They are in the hallway and he can give them the message.

THE COURT: 9:30 tomorrow morning.

CAPTAIN CARRAS: Yes, sir.

BY MR. WAGNER:

Q. Mr. Palczewski, I show you Government Exhibit Number 12. Does that look like the document?

A. That is it, yes.

Q. Tell me what you saw about that document and how your attention was drawn to that particular one?

A. Well, right here, "Mechanical-electrical" in the second

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paragraph, that's where the objection was.

Q. And how do you know that?

A. Because it was brought to my attention when Rick objected to it and he said "What's mechanical-electrical? I had the idea I was going in for bulk fuel".

Q. And it was then that Sgt. Koponen told him that bulk fuel was available under that particular job description along with other jobs, isn't that right?

A. Well, I don't know if he said "along with other jobs".

Q. You don't know if he did and you don't know if he didn't?

A. No.

Q. You can't remember what he did?

A. I can't remember his exact words.

Q. But in any event, he did explain something to Mr. Kasperek about mechanical-electrical?

A. Yes.

Q. And I take it that that satisfied Mr. Kasperek, whatever was said?

A. Yes, because he signed.

Q. He then signed it. You do recall the recruiter discussing with him what "mechanical-electrical" meant, is that right?

A. What I recall is the objection and that if he took it like this, he would still get into bulk fuel.

Q. He still could get into bulk fuel, right?

A. Well - -

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Q. Well, there is a difference, isn't there?

A. Yes, there is.

Q. And Sgt. Koponen told him that bulk fuel was one of many things available to him under "mechanical-electrical" along with others, didn't he?

MR. MACEK: Objection. He has already said he doesn't remember.

THE COURT: Perhaps his memory might be recalled on further suggestion. We do not want it to go too long but I think it is appropriate to make some remarks.

THE WITNESS: To the best of my recollection, I don't remember him explaining about different jobs.

BY MR. WAGNER:

Q. Let me ask you just one question. Do you remember, sir, that Sgt. Koponen explained to him, - well, you do remember him saying something about bulk fuel?

A. Yes.

Q. But you don't remember exactly what he said about bulk fuel?

A. Right.

Q. Do you recall that he told him that bulk fuel could be one of the many possibilities he would get under mechanical-

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electrical?

A. Okay.

Q. Is that a "yes" or "no" answer?

A. I don't remember him saying "one of the many possibilities". I remember him saying after boot camp he could get into bulk fuel.

Q. He could get into it?

A. He could.

Q. And you know what that word means and the implication from that, don't you?

A. Yes, I do.

Q. Do you recall if Sgt. Koponen discussed with him that he could get into anything else?

A. No.

Q. You don't recall?

A. No.

Q. No, you don't recall or yes, you do not recall.

A. I don't recall him talking about getting into some other field.

Q. Now, after that particular discussion came up, how long after that did this meeting last, do you recall? Again, as best you recall, let me ask you that, and I realize you would not have timed it, but would it have been just a few minutes or another hour or so?

A. Oh, not an hour. Maybe ten, fifteen minutes.

Q. Okay, so do you recall how long the whole morning was that you were at the recruiter's office?

A. At most an hour, at most.

Q. So I take it that this came up towards the second half of the meeting and you were still there fifteen or twenty minutes after that?

A. Maybe a half hour after that.

Q. Do you recall what went on in that half hour or what kind of talk went on or what kind of plans were made?

A. Well, the conversation just kind of varied. Everytime we went there it was like that. We would be talking about the Marine Corps and it would be hard and serious and then a few minutes later there would be jokes and we would be talking about different things like guns and you know, everytime I was there.

Q. As best you can remember, Mr. Palczewski, after this incident came up about this particular language on the form, the conversation continued on with the type of life Mr. Kasperek might experience in the Marine Corps and further details about his recruitment and enlistment, if you can remember?

A. I don't recall.

Q. And I take it then that there came a time that the meeting ended, is that right?

A. Yes.

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Q. And what did you do?

A. I believe he dropped me off at home.

Q. "He" is Mr. Kasperek?

A. Yes.

Q. And then he, as far as you know, he went on by himself to the recruiting office in Buffalo?

A. Yes.

Q. And took an oath. Did you talk to him after that?

A. About - -

Q. About him having enlisted in the Marine Corps?

A. Yes.

Q. Okay. What did he tell you about that afterwards?

A. That he enlisted. He didn't tell me much about it. He didn't go into detail what he did or anything like that.

Q. Do you recall when it was after that that you first saw him again? Was it the next day?

A. Most likely, yes. I used to see him most every day. I don't remember.

Q. Now, you mentioned also, sir, that between the time Mr. Kasperek actually enlisted and the time he went in the Marine Corps, you may have also talked to the recruiter with him present?

A. Yes.

Q. And what was the purpose of those meetings if you can remember?

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A. Just about the same, talking to him, no special purpose. We would have nothing to do so we decided to go up there.

Q. Do you recall if that was for purposes of Mr. Kasperek talking to the recruiter or was it for your purposes of talking to him?

A. Perhaps it was supposed to have been guided toward me but I didn't show a lot of interest and I wasn't pushed.

Q. Can you tell me, sir, whether or not the Sargent continued to try to recruit you if you would have been aware of it?

A. He never really pushed. One time that he did ask me to take an aptitude test and I did but, you know - -

Q. I take it, - well, finish your answer.

A. Like I took the aptitude test one time and they asked if I would go in on the buddy system.

Q. I take it at some point along in there or more than one point, you expressed a desire not to go in, is that right?

A. Yes.

Q. And the Sargent did not press you to go in?

A. Right.

Q. But he did explain to you, did he not, that, - over the summer, that you could go in on the buddy plan?

A. Right.

Q. And be with your friend during boot camp?

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A. Yes.

Q. Did he explain to you that you could also stay with your friend after that on a permanent assignment or was the buddy plan only for boot camp?

A. That I don't recall. Like I say, I didn't really take that much interest in it but I took it that I would have stayed with it.

Q. That was not really discussed?

A. No.

Q. And I take it the kind of work you would do or the assignment you would get was not really discussed either?

A. No.

MR. WAGNER: Thank you.

THE COURT: Mr. Macek?

MR. MACEK: No further questions.

THE COURT: All right. Thank you. We will be in recess in this matter until 9:30 tomorrow morning when we will continue. Do you have any further witnesses, Mr. Macek?

MR. MACEK: No, your Honor.

THE COURT: All right. You have some witnesses?

MR. WAGNER: I have two, Judge.

THE COURT: All right. We will hear them at 9:30 tomorrow morning.

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MR. MACEK: Thank you, your Honor.

THE COURT: We will be in recess.

(Recess taken at 4:40 p.m.)

* * * * * * * * * * *

PROCEEDINGS: July 16, 1976, 9:45 a.m.

APPEARANCES: As before noted.

R O N A L D K O P O N E N (12 Main Street, Hamburg, New York), a witness called by and in behalf of the Defendant, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION BY MR. WAGNER:

Q. Sergeant Koponen, I would like you, sir, to tell us what your occupation is?

A. I am a Marine Corps Recruiter.

Q. Approximately, sir, how long have you been a recruiter for the Marine Corps?

A. Two years.

Q. And approximately how long have you been in the Marine Corps?

A. For pay purposes, it is fifteen years.

Q. And you have held various duties in the Marine Corps, sir?

A. Yes.

Q. Will you tell us what some of those have been?

A. Drum and Bugle Corps instructor, musician, music instrument repairman, machine gunner, rifleman and also

recruiter.

Q. Now, Sergeant, as a recruiter I would like you to explain what your functions are generally to the Court.

A. Well, the main function as a recruiter is to find qualified applicants and perform the duties for enlistment into the Marine Corps.

Q. Can you tell us how you go about doing that, where you operate from?

A. Well, yes, my main station is in Hamburg, New York and what we do is we have a call from high school lists or referrals from other people that we have enlisted before. Once we get them in the office, we give them the standard presentation and after the presentation after they like the Marine Corps story, we take them up and give them the test, and after the test, if they are qualified, then we proceed making out the paperwork. After the paperwork we take them for a physical and after the physical they enlist and they either leave that day or they are put on a delayed program for six months.

Q. Sergeant, do you have any quota that you are expected to meet as a recruiter?

A. Oh, yes.

Q. Can you explain what that is, sir?

A. Our quota is the number of people who are supposed to

leave that month and we also have productivity. That is a Marine recruiter puts 2.5 men per month in the Marine Corps.

Q. So productivity, can you distinguish your productivity from your quota?

A. Yes. Do you mean right now?

Q. Well, tell us what the difference is.

A. Well, the difference between productivity and quota is productivity is the number you enlist that month. Quota is the number of people who leave that month.

Q. Do you have, sir, a particular numerical quota or productivity number that you are expected to meet?

A. Well, yes.

Q. And what is that?

A. Well, your quota, take this month for example, July, our quota this month is seven people, seven men or women have to leave this month. Our productivity is 2.5 and then our O-in-C, Major O'Neill, he sets another productivity of 4 per man.

Q. Now, I take it, sir, that you work in Hamburg with some other recruiter also?

A. Yes, I do.

Q. Is there anyone else recruiting in the Hamburg area?

A. Marine Corps?

Q. Right.

A. No.

Q. Are there any incentives for you, sir, as a recruiter or any penalties either for exceeding your quota or not making it?

A. Oh, yes. If we exceed our quota we may make station of the month which is a plaque. If we make a high productivity for the month, we can make recruiter of the month which is also a plaque or a commendation.

Q. Are there any other incentives for you if you exceed your quota or productivity?

A. No.

Q. Are there any penalties for not making your quota over that month or your productivity?

A. For that one month, no. If it is for a long period of time, an extended period of time, then, yes, you could be put on probation.

Q. Do you know about how long it would take for this extended period of time before you would be put on probation?

A. Usually three to five months.

Q. And what is the penalty if you go on probation, what is the effect of that?

A. Just a letter stating that you are on probation and an entry is made into your fitness report.

Q. Has that ever happened to you, sir?

A. Yes, it has.
Q. Okay. When was that?
A. I am not sure, sir. I believe it was in the winter of '74.
Q. Did anything come of your having been put on probation?
A. No, sir.
Q. Did it affect your promotions or your rank?
A. No, sir.
Q. Did it affect your salary?
A. No, sir.
Q. Now, Sergeant Koponen, do you have any specific recollection of a Marine recruit by the name of Richard E. Kasperek?
A. Yes, I do.
Q. Okay, and is that from your own recollection or from the records you have reviewed, sir?
A. From my own recollection.
Q. Do you recall when it was that you first saw Mr. Kasperek?
A. I believe it was in September of '74.
Q. Do you recall, sir, the circumstances under which you first saw him?
A. No, other than what I read on the card.
Q. Do you have a particular record which reflects that?
A. Yes.

Q. Do you have the name of that, sir?
A. That's the applicant data card or recruiter card.
Q. I show you Government Exhibit 3. Is that what you are referring to?
A. Yes.
Q. And what can you tell us that shows with respect to when you first met Mr. Kasperek?
A. Well, here it shows that he enlisted on 26 March 1975 and he was due to leave for boot camp 5 September. He was a walk in. In other words, someone referred him or he just walked into the office by himself.
Q. Do you recall who it was that referred him to you?
A. I believe it was his mother.
Q. Do you have an acquaintance with his mother?
A. Yes, I do.
Q. And from where does that come, sir?
A. She works at Jimmy's Texas Hot on the corner of Main and Buffalo in Hamburg.
Q. Had you talked to her about her son enlisting in the Marine Corps?
A. Yes.
Q. Now, do you have any other specific recollection of Mr. Kasperek?
A. Only one other time when he didn't want to leave for boot camp.

Q. And that was after he enlisted?
A. Yes.
Q. And was that, sir, during a discussion with you about his experiences at boot camp?
A. Well, it was more or less over the phone.
Q. Between September of '74 and the time the man enlisted in March, do you have any specific recollection during that time period of having met with Mr. Kasperek?
A. No.
Q. Now, so the record is clear, Sergeant, would you have met with other recruits during that time period also?
A. Yes.
Q. Could you give us an estimate of how many people you would see or what type of activities you would be conducting at that time?
A. Could you repeat the question?
Q. Could you tell us, sir, how many other people you would be seeing in the interim, what your day was like?
A. Are these actual people who enlisted already or recruits?
Q. No, prospects.
A. Normally we would be seeing three to five a day.
Q. And would that take place in your office or elsewhere?
A. In my office or at their homes or coffee shops, anyplace we can get them.
Q. And I take it you saw a sufficiently large number of

other people so that your recollection of Mr. Kasperek is minimal, is that correct, sir?

A. That's true.

Q. Now, Sergeant Koponen, you mentioned that Mr. Kasperek enlisted March 26, 1975, is that right, sir?

A. Yes, sir.

Q. Can you tell me, sir, what the practice or procedure is with respect to when a man actually comes in to enlist, what you do with the recruit?

A. After his paperwork is filled out, I usually pick them up in the morning and take them to the Marine Corps recruiting station and when we get there we go upstairs to the Armed Forces Entrance and Examination station and he has physical. After his physical we go back down to the second floor which is the recruiting station and there he will fill out his final paperwork and then he will be enlisted into the Marine Corps.

Q. Now, you mentioned after he filled out his paperwork. Can you explain as best you recall what this paperwork would involve and how this is filled out?

A. Well, yes. Basically what it is is your personal history forms, your basic contract, your statement of military understanding, your emergency data and police forms, police checks.

Q. Is that done, sir, at the Hamburg office or is it done

here in Buffalo?

A. At the Hamburg office.

Q. I show you Government Exhibit 7 and I will ask you to look at that and tell us if you have ever seen that before, sir?

A. Yes, I have.

Q. Can you explain what that is, please?

A. This is the enlistment contract for the Armed Forces.

Q. And is that in respect to a particular individual?

A. Yes.

Q. Who is that?

A. Mr. Kasperek.

Q. And how do you recognize that?

A. That it is his?

Q. Well, yes, how do you recognize it as his?

A. Well, his name is on it and he also signed the back.

Q. Anybody else sign the back?

A. Yes, I did.

Q. Would you know, sir, where that was prepared?

A. Yes. This was in Hamburg.

Q. What is the purpose of preparing that form?

A. It is just part of the order, sir.

Q. Is that a final form or a rough draft?

A. No, this is a rough draft.

Q. And it is a rough draft for final preparation of a

final draft?

A. Yes.

Q. Where is the final draft prepared?

A. At "MRS" Buffalo.

Q. I will show you Government Exhibit 12, sir. Do you recognize that?

A. I know what it is.

Q. And what is it?

A. It is an enlistment contract. This is the program guarantee.

Q. Is that filled out in Hamburg or in Buffalo?

A. That is filled out in Buffalo, New York.

Q. Can you tell me, sir, if you know, what the practice is with respect to the preparation and signing of that form?

A. Yes, I can. What you do with this, with the contract right here is --

Q. Government's Exhibit 12.

A. Government's Exhibit 12 --

MR. MACEK: I would like to object because I am not clear that any foundation has been laid as to how he knows this. He says "They do it this way".

THE COURT: Yes. Mr. Wagner, you do not have

to go through this. I did not interrupt before, but if you have him testify generally about what he did, what really we are concerned with here is what happened as far as Mr. Kasperek is concerned and Mr. Koponen, not what happened as far as some other possible recruit. I know that he may not be able to recall in particular everything that was said because he sees a number of them, but to as great an extent as possible we should try to get down to the particular facts of this case. All right. Next question, Mr. Wagner.

BY MR. WAGNER:

Q. Sergeant Koponen, looking at that particular Exhibit Number 12, with respect to Mr. Kasperek, do you have any specific recollection of the preparation of that particular form, sir?

A. Yes. That is done by the administrative chief up in Buffalo and they have to call Washington, D. C. for a control number for the program.

Q. Do you recall, sir, going over that form with Mr. Kasperek specifically?

A. No, I don't.

MR. WAGNER: Judge, if he doesn't have a specific recollection --

THE COURT: All right, go ahead.

BY MR. WAGNER:

Q. Can you tell me, sir, what your practice is with respect to that form and the recruit?

A. Well, this form here is handled specifically by Buffalo.

Q. And how do you know --

THE COURT: You do not handle it then?

THE WITNESS: No, sir, I don't.

THE COURT: All right. Let us skip it then, Mr. Wagner. If he does not handle it let us not have him guess about it. That is Number 12?

THE WITNESS: Yes, sir.

THE COURT: Let me see that a minute.

BY MR. WAGNER:

Q. Sergeant Koponen, so the record is clear, the form Number 12, do you have those in your Hamburg office?

A. No, sir.

Q. And you don't prepare them there?

A. No, sir.

Q. Do you have anything like them in the Hamburg office that you would go over with a recruit or an enlistee?

A. No, sir.

Q. Now, Sergeant, can you tell me, sir, what your understanding is or what your understanding was in September of '74 and March of 1975 of the type of work included in what is called a mechanical-electrical program?

A. What my understanding is of the program?

Q. What your understanding was at the time of the program.

A. It is, - the job itself is a sub program. There is six or seven different programs within the mechanical-electrical field. Some of these jobs are mechanics, plumbers, air conditioner technician mechanics and so on right down the line.

Q. When a recruit comes in to you, sir, can you tell me what your practice is with respect to discussing with him the types of work available to him in the Marine Corps?

THE COURT: For the record, Sergeant Koponen, Mr. Kasperek told us that he came in and had a discussion with you about his desire to be a bulk fuel man. Can you

recall in particular the conversations that you had with Mr. Kasperek about the kind of work that he wanted to do and what you told him?

THE WITNESS: No, sir.

THE COURT: Go ahead, Mr. Wagner.

BY MR. WAGNER:

Q. Can you tell us, sir, what your practice is with respect to discussing with a potential enlistee the types of work available for him?

A. Yes. We have a standard presentation or a standard book that has all the options. In other words, the programs, and I go through these programs with the individual and if they find one they like, then I will break it down further.

Q. Now, one of the general programs is what is called mechanical-electrical, is that right, sir?

A. That's right.

Q. Are there others?

A. Yes, there are.

Q. Can you give us an idea what the others might be like?

A. Combat support, straight infantry, combat bonus programs, infantry bonus, motor transport, food services. I believe there is thirteen in all, sir.

Q. Can you tell me, sir, what your understanding was at the time with respect to the mechanical-electrical field, what kinds of work were included in that area?

A. Do you want the --

THE COURT: Was bulk fuel man, - was that included within the --

THE WITNESS: Yes, it is included within the thirteen hundred field.

THE COURT: All right. What field, if you are going to be a driver of heavy equipment, what field would that be in?

THE WITNESS: That would be under combat support.

THE COURT: Are there any similar areas in that, in the mechanical-electrical like truck drivers?

THE WITNESS: Oh, yes. There is motor transport.

THE COURT: Mr. Wagner, why don't we get to the point. What happened here is that Kasperek thought he was going in as a bulk fuel man. When he finished his boot training, and you probably know this by now, - I don't know, - at that time they said "No, you are going to go to motor transport". What kind of a vehicle

did he drive?

MR. MACEK: Five ton truck.

THE COURT: Five ton truck. At that time he said, "No, I am supposed to be a bulk fuel man", and they said, "Well, we are sorry but you are going to be a five ton truck driver", and then would that be included under mechanical-electrical, would this kind of a driver be included within this range?

THE WITNESS: Yes, it would, sir.

THE COURT: Is that explained in the program that you set out?

THE WITNESS: Yes, sir, it is.

THE COURT: Do you have the booklet that you would show the recruit at the time of interviews with him?

THE WITNESS: We have one here, your Honor.

THE COURT: That is the one there, all right. What page is that on?

THE WITNESS: Motor transport, sir, or the --

THE COURT: Mechanical-electrical, can you turn to that page, please?

THE WITNESS: Well, there is various programs in this.

THE COURT: I am interested in mechanical-electrical. Is that in the book?

THE WITNESS: No, sir, it is not.

THE COURT: It is not in the book?

THE WITNESS: Not in this one.

THE COURT: Do you have the book where mechanical-electrical is included?

THE WITNESS: No, sir, I don't have it with me.

THE COURT: Mr. Wagner, that is the whole point of this lawsuit.

MR. WAGNER: Well, Judge, I think I can explain that.

THE COURT: All right. Let us go ahead. Can't we get to the facts of this case instead of all this general testimony. Let us get to the case.

BY MR. WAGNER:

Q. Judge, can I explain something to you, perhaps, instead of asking the witness?

THE COURT: I wish that you would have talked to the witness a little more before he got on the stand because it appears to me that he does not know what we are

about here.

MR. WAGNER: Wait, Judge, --

THE COURT: Maybe you are trying to be so cautious and careful that you do not want to coach the witness and that is commendable, but I think that you have to explain to the witnesses what the problem is.

MR. WAGNER: We did that, Judge.

THE COURT: All right. What do you want to say?

MR. WAGNER: And I am sure the witness knows --

THE COURT: What do you want to say?

MR. WAGNER: The mechanical-electrical group which the Sergeant would explain a recruit has is mechanical-electrical is listed on a sheet of paper and it is listed with a certain number of numbers, job numbers, and a fellow that goes into the mechanical-electrical area would be told he was eligible for jobs thirteen hundred, sixteen hundred, nineteen hundred and twenty-five hundred, and that book contains the descriptions of the jobs under thirteen hundred, under

nineteen hundred. There is, at least my understanding, there is no book that talks about mechanical-electrical. There is no book that talks about combat support.

THE COURT: I suppose this book, if he used this book, this would be an explanation of what a fellow might expect if he joined the Marine Corps.

MR. WAGNER: But he would use that book, Judge, not something else. The recruiter would tell him that included under mechanical-electrical there are a lot of numbers.

THE COURT: Is that all you tell a man is numbers?

THE WITNESS: May I explain, sir?

THE COURT: Mr. Wagner, will you bring it out through the questioning. Does it say anything about bulk fuel?

THE WITNESS: Yes, it does.

THE COURT: All right. Turn to bulk fuel. Let us get to that instead of talking about everything else here that does not apply to this case.

THE WITNESS: Under the mechanical-electrical field, sir, under thirteen hundred which is included in the program, some of the specialist jobs are engineer, equipment operator, combat engineer, bulk fuel man, metal worker, engineer, equipment mechanic, engineer equipment chief, ground control --

MR. MACEK: Can I have the page number that you are reading from?

THE WITNESS: Yes, Page 11. Atomic demolition employment technician, those are the specialist jobs in thirteen hundred which is included in mechanical-electrical.

BY MR. WAGNER:

Q. Sergeant, at that time in September of '74 and March of '75 if a man had come in and told you that he was interested in bulk fuel, would you have included that in the mechanical-electrical field or not?

A. Yes, I would.

Q. Would you have told him anything else about other jobs in mechanical-electrical also?

A. Yes.

Q. Do you recall, sir, whether you discussed with Mr.

Kasperek specifically a guarantee for bulk fuel?

A. No, I didn't.

Q. Have you ever, sir, --

MR. MACEK: I would like to object to that. That was not a responsive question, - or a responsive answer to the question, did he have any specific memory.

THE COURT: All right. Why don't you do this, Mr. Wagner, I will let the answer stand, but why don't you ask the question.

BY MR. WAGNER:

Q. Do you recall whether or not you ever promised to Mr. Kasperek that he would get a bulk fuel job specifically?

A. I never guaranteed him bulk fuel.

Q. Is it your practice of never guaranteeing anyone?

A. That's right.

Q. Or are you saying you specifically recall Mr. Kasperek's case?

A. Well, I cannot guarantee a man a specific job.

THE COURT: Sergeant, I suppose this must arise quite often; a young man comes in and he is interested in a specialty, let us say

Q And what would you do on that day?

electronics, he wants to determine, - he is hopeful that when he finishes the Marine Corps he will be able to get a job in industry, let us say radio electronics; that would be, I suppose, talking about a different field.

THE WITNESS: Yes.

THE COURT: Are there other jobs that are also connected with that field?

THE WITNESS: The mechanical-electrical field or electronics?

THE COURT: I am breaking my own rule. I am going into another field.

THE WITNESS: Yes, sir, electronics is a special guarantee. We have got electronics repairman and we have got straight electronics.

THE COURT: That you would call a special guarantee?

THE WITNESS: No, sir. That is still a ground sub-program.

THE COURT: He could be assigned to other jobs?

THE WITNESS: No. Well, it is --

THE COURT: I am getting it too complicated. Let us stick with mechanical-electrical.

a guarantee by his scores, but he does not have that

A young man wants to be, let us say, a truck driver when he comes in. That is in the mechanical-electrical field?

THE WITNESS: Also in motor transport field.

THE COURT: He looks through the book and it looks like this is the field for him and he says, "All I want to do, - I don't want to do anything else but be a truck driver, that is all I want to do", and what do you say to him?

THE WITNESS: I would tell him that he would get one of these jobs and I would point out each job and I would use this book here and will explain all the jobs that he could receive in that field.

THE COURT: In this case Mr. Kasperek says that he was only interested in being a bulk fuel man. Under those circumstances what would you say to him?

THE WITNESS: I would still say he would get one of those jobs. I do not guarantee him bulk fuel.

THE COURT: One of the jobs in the mechanical electrical field?

THE WITNESS: Yes.

THE COURT: Go ahead, Mr. Wagner.

BY MR. WAGNER:

Q. Just one more question. Do you recall, sir, whether you have ever talked to any recruit specifically about bulk fuel? Do you have any recollection of that?

A. No, sir, I don't have any recollection.

Q. And do you have a recollection of ever promising a recruit that he would receive specifically a job in the bulk fuel area?

A. No, sir.

MR. WAGNER: Nothing else. Thank you.

THE COURT: Mr. Macek.

CROSS EXAMINATION BY MR. MACEK:

Q. Sergeant Koponen, when did you begin your tour of duty as a recruiter?

A. In July of 1974.

Q. So you had been, - in September of '74 you had been a recruiter for perhaps two months?

A. Yes.

Q. Do you have Government Exhibit 1 up there? Yes. Now, there are a very large number of jobs in this book, is that correct?

A. Yes.

Q. Would you at that point have had a detailed familiarity with all of the jobs in here, would you know what each job amounted to at that point?

A. No, not specifically.

Q. So if a recruit, potential recruit came in and he was asking about a particular job and was giving it a different name, you might have some trouble, you know, correcting him as to what he was talking about?

A. Yes. All we go by is the military occupational specialty numbers.

Q. Now, you testified that you always gave, - give a standard program or standard presentation?

A. Presentation.

Q. To someone who walks in. I understand that that would be true if, you know, if somebody walks in off the street and says "Hey, tell me about the Marine Corps", or, "I hear the Marine Corps has some interesting stuff, tell me about it", would you do exactly the same thing if somebody came in and said, "I am interested in this particular sort of job", would you go through the whole program?

A. It depends. In Mr. Kasperek's case he was a walk in. He walked into my office. I don't know whether it was his mother or someone else talked him into it, but

normally I give the full standard presentation because they still have to know about the Marine Corps, they still have to know about boot camp, what to take and how to prepare themselves for boot camp and this is all in the standard presentation.

Q. Yes, but if he were, - if someone were to walk in and ask you specifically, "I want to be a five ton truck driver" or "electronics specialist", you would leave out some of the standard presentation as to the variety of jobs available?

A. Yes. I would just go into that specific job.

MR. MACEK: I have no further questions.

THE COURT: Anything else, Mr. Wagner?

MR. WAGNER: Nothing else, Judge.

THE COURT: Thank you, Sergeant. Next witness, please.

* * * * * * * *

T H O M A S P. C A R R A S (69 Beckwith Avenue, Niagara Falls, New York), a witness called by and in behalf of the Defendant, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION BY MR. WAGNER:

Q. Could you tell us, sir, what your occupation is?

A. I am a Captain, United States Marine Corps, and my job in Buffalo is Assistant Officer in charge of the recruiting station in Buffalo.

Q. Approximately, sir, how long have you been with the Marine Corps?

A. I have been in the Marine Corps approximately eight years.

Q. And approximately how long have you been in the Buffalo area?

A. Approximately two years, ten months.

Q. How long, sir, have you been in your present position of responsibility?

A. Two years, ten months.

Q. Could you explain for us briefly what kind of duties you perform in your present position?

A. As the Assistant Officer in Charge I am assistant recruiting officer, that being I enlist young men into the Marine Corps as my primary job. Other jobs being motor transport, facilities, logistics.

Q. Now, do you have, sir, as a man specializing in the recruiting area, do you have any knowledge at all, sir, of what is referred to as military occupational specialty?

A. Yes, I do.

Q. Can you explain what that is, please?

A. The military occupational specialty which we call "MOS" is a job category for a young man coming into the Marine Corps.

Q. Can you explain to the Judge what types of jobs are available to a man and how would you explain to the man, if you know?

A. When a young man comes into the recruiting office and desires, - coming into the Marine Corps and desires a specific job, we have job guarantees we can give a man. There are guarantees under combat, combat support, mechanical-electrical, aviation field and after the man is mentally tested and he qualifies, we break down a chart that shows the score he has to obtain for a certain job guarantee and if he does, we can acquire that guarantee for him by name and number.

Q. Can you tell me, sir, what you know about the particular special program referred to as mechanical-electrical?

A. Mechanical-electrical is a job guarantee which encompasses I think, six different "MOS's" ranging from utilities, engineering, motor transport, communications.

Q. Can you tell me, sir, what you know about a particular "MOS" referred to as bulk fuel?

A. Bulk fuel is the "MOS" 1391 which means bulk fuel man. A bulk fuel man is taught how to assemble, maintain and

install bulk fuel systems. He is knowledgeable in petroleum products, the testing thereof, and he is knowledgeable in the setting up of the amphibious bulk fuel system.

Q. Do you know, sir, if the bulk fuel man has any contact or any duties related to aircraft in any way?

A. At some times bulk fuel systems may be set up near an aircraft or near an airfield but from my recent investigation --

MR. MACEK: I object because there is no foundation as to what he knows. I don't know if he is talking about specifications in the manual which I think he can testify or if he is telling us about what sometimes happens at airfields in Tokyo or South Carolina or elsewhere.

THE COURT: The problem, Mr. Wagner --

MR. MACEK: And I would like the record clear on that.

THE COURT: I know the Captain cannot tell us in particular what was said to Mr. Kasperek but I think though, Mr. Macek, to understand this, what a bulk fuel man does, we can let him explain.

MR. MACEK: If he is merely telling us what the regulations and specifications say, I have no objection to that.

THE COURT: Fine.

BY MR. WAGNER:

Q. Okay. In light of Mr. Macek's comment, sir, would you continue answering that?

A. From my knowledge and from job descriptions that is what I described before, what a bulk fuel man does. Within the job category it has nothing to do with aviation.

Q. Now, would you know, sir, from a man's particular scores whether he was eligible for a bulk fuel job?

A. Yes, I would.

Q. And can you tell me, first of all, sir, whether or not a bulk fuel specialist or the bulk fuel specialty is part of the mechanical-electrical sub-program?

A. No, it is not.

Q. It is not, so a man that went into the mechanical-electrical field could not become a bulk fuel man?

A. No, he could not.

Q. So regardless of a man's score under mechanical-electrical, he would not be eligible for the bulk fuel job, is that right?

A. Right.

Q. Now, Captain Carras, when you, - in your job as a Captain here in Buffalo, do you have any contact with recruits that come in, sir?

A. Yes, I do.

Q. Can you explain what your function is in this recruiting?

THE COURT: Before we leave that, you say that bulk fuel is not part of the program known as mechanical-electrical?

THE WITNESS: Yes, sir.

THE COURT: Where does it fit?

THE WITNESS: It comes under the combat support guarantee.

THE COURT: Is there any special guarantee for bulk fuel man?

THE WITNESS: No, sir. Bulk fuel man would be under the thirteen hundred heading "MOS" which encompasses, comes under combat support. Thirteen hundred also comes under mechanical-electrical, the mechanical-electrical, but under the thirteen hundred heading mechanical-electrical, bulk fuel is not a guarantee.

THE COURT: Under mechanical-electrical, what about, does that cover truck driver?

THE WITNESS: Yes, sir.

THE COURT: Do the scores have to be higher or different in mechanical-electrical than they are in the combat support?

THE WITNESS: Combat support requires a higher score. Statistically, a "GT" of 100, whereas mechanical-electrical requires a "GT" of 90.

THE COURT: Go ahead, Mr. Wagner.

BY MR. WAGNER:

Q. Captain, can you tell us on that same line what types of jobs are included under the mechanical-electrical field?

A. As I said, the "MOS's" are construction equipment, - excuse me, basic metal worker, basic engineer, equipment mechanic, - this is under the thirteen hundred, specific jobs under the thirteen hundred field under mechanical-electrical, construction equipment, shore party, engineer equipment operator and then we break down into the other "MOS's".

Q. Captain, can you tell us, sir, what your contact is with recruits when they come in, if any?

A. On the day the man is going to be sworn into the Marine Corps is usually my initial contact with a recruit or an applicant. At this time he is mentally and physically

qualified and he is brought to our procurement section which initiates the final paperwork and calls for a man's guarantee and at that time he is brought before me to be sworn into the United States Marine Corps. When he comes into my office I review his paperwork insuring that his name, social security number, his address is correct. I insure that he is physically and mentally qualified and morally qualified for the Marine Corps. I review his job guarantee and ask him if he has any questions about that or about the United States Marine Corps and at that time I swear him in to the United States Marine Corps.

Q. Captain, let me show you what is marked as Government Exhibit 9, and I will ask you if you would look at that, sir, and tell us what that is, if you know?

A. This is United States Marine Corps Reserve "J" program contract, meaning that when this is filled out, a man is coming into the delayed program which specifically means that he is sworn in, he will be leaving at a later time, somewheres after thirty days.

Q. Okay. Can you tell us if you recognize that particular form, and if so, how do you do that?

A. Well, I know it is a United States Marine Corps "J" program contract because it is typed in in the block.

Q. Is there anything about that that you recognize speci-

fically?

A. Yes. My name is signed in two places.

Q. And anybody else's name on there, sir?

A. Yes, Richard Edward Kasperek.

Q. Do you have any specific recollection, sir, of signing that form?

A. No, I don't.

Q. Would you tell me what your practice is, sir, with respect to putting your signature on such a form?

A. When I put my signature on this form that means it is the final step after I enlist the man in the Marine Corps.

Q. And do you go over that form with the recruiter prior to signing it?

A. Yes, I do.

Q. When does he sign it, if you know?

A. This will be signed before he enters my office. This is in the final package before he comes into my office. Everything is explained to him in the procurement section.

Q. And do you go over that form with him at all?

A. Yes, I do.

Q. Can you tell us if you have any specific recollection of going over that form with Mr. Kasperek?

A. No, I don't.

Q. Would you tell us what your practice is with respect to going over that form with the enlistee?

A. The first step would be review the name, social security number to make sure he is coming in for the right amount of time, where he puts in in his own handwriting the job guarantee which right here is sub-program mechanical-electric only, and he understands that is his guarantee, and at that time I would give him the oath.

Q. Do you discuss a particular job with the recruit at that time?

A. Normally when a man comes in for a job guarantee, I tell him his guarantee and ask him if he has any questions about that guarantee.

Q. I show you, sir, what has been marked as Government Exhibit 10. Would you look at that and tell us if your name appears on that anywhere, sir?

A. Yes, it does.

Q. And where is that?

A. At the bottom of the contract.

Q. Can you explain what that form is used for?

A. This is United States Marine Corps contract bringing the man to active duty. This would be filled out the day the man ships for boot camp.

Q. And what would your role be when that form is filled out, sir?

you have a lot of extra to do to take care of a foul up

A. Again I would be the enlisting officer.

Q. And what would you do on that day?

A. Normally on a ship day we can have anywhere from one to twenty people and it would be my process, used to be the process of the office that I would swear these people in to leave for boot camp where I could meet the people, just check their names and enlist them.

Q. I show you Government Exhibit 12, sir. Do you recognize that particular form?

A. This is a statement of understanding of sub-programs, United States Marine Corps.

Q. I ask you if you recognize any signatures on the back of that?

A. On the back of that we have John T. Kiley, Jr., who worked in the procurement section in our office at one time and Richard Edward Paskerek.

Q. Do you have any specific recollection about that form, sir?

A. This form is filled out when a man comes up to enlist in the United States Marine Corps. This is a form that is filled out when he is given the mechanical-electrical guarantee.

Q. Can you explain what you mean by that, when a man is given a guarantee?

Q. Can you tell us when that form was prepared?

A. When a man comes up to the office he is qualified for a guarantee by his scores, but he does not have that guarantee. When he comes up to be sworn in we make a call to the U. S. Marine Corps to establish a guarantee number for the man, which is synonymous with his name.

Q. Now, that call is made from where, sir?

A. Our office in the Federal Office Building.

Q. And is that form filled out in Buffalo or at the recruiting office?

A. At the Buffalo Office on West Huron Street.

Q. Do you go over that form with the recruit when he comes in?

A. Basically I just ask him, I notice where he has initialed, and I say "You are coming in for the ground sub-program mechanical-electrical. Do you have any questions about that guarantee and you know you can be assigned any job therein".

Q. That is your practice?

A. Yes, it is.

Q. I take it, sir, you don't have any specific recollection about that particular instance with Mr. Kasperek?

A. No, I don't.

Q. And I take it, sir, after you swear the man in, that would be the extent of your contract with him?

A. Yes, it would be normally.

MR. WAGNER: I have nothing else. Thank you.

THE COURT: Mr. Macek. Could I see that booklet, please, Mr. Wagner, the recruiter's book. Mr. Macek, do you have some questions?

CROSS EXAMINATION BY MR. MACEK:

Q. Yes, your Honor. The Hamburg recruiting office is a substation, is that correct?

A. Yes, it is.

Q. And yours where you are stationed is the main station over the --

A. Yes, it is.

Q. Hamburg office. Now, you testified that bulk fuel was not part of the mechanical-electrical --

A. Field, yes, "MOS", yes.

Q. If I may refer you to Government Exhibit Number 1. Your Honor, I am sorry, may I --

THE COURT: I have one, yes.

MR. MACEK: This is.

THE COURT: Probably the same.

MR. WAGNER: Judge, I will let Mr. Macek use whichever one he wants because they are the same.

THE COURT: All right.

BY MR. MACEK:

Q. I show you Page 11 of the construction, - of Government Exhibit Number 1, the part marked in red there. What does that state there?

A. Bulk fuel man.

Q. And that is within the category of construction equipment or shore party?

A. Or shore party, correct.

Q. And on Government Exhibit Number 12 at, -on the first page, Paragraph "E", would you, - and that is ground sub-program mechanical-electrical?

A. Yes.

Q. And that Mr. Kasperek's initials appear next to.

THE COURT: Excuse me, Page 12?

MR. MACEK: I am sorry, I meant Government's Exhibit 12 for the moment, referring back and forth.

THE COURT: I see.

BY MR. MACEK:

Q. And in that Paragraph "E" does it not say as one of the long list of things within the mechanical-electrical

sub-program, are not the words "construction equipment and shore party"?

A. Yes, there is.

Q. Just as there are here at Page 11?

A. Yes.

Q. And apparently in the book bulk fuel is in fact within construction equipment and shore party and therefore in fact within the mechanical-electrical?

A. No. This book is old. This book was used back in '74 and '75.

THE COURT: Mr. Kasperek was recruited in the fall of 1974 and in the spring of 1975 so that is the book we are interested in.

THE WITNESS: Yes, sir.

THE COURT: This Exhibit 1 here, was that used then?

THE WITNESS: Yes, sir.

BY MR. MACEK:

Q. But this has changed since?

THE COURT: That form, Exhibit 12, was used then?

THE WITNESS: Yes, sir.

THE COURT: I do not care what you do now. We are concerned about what you did then. Could I see that Exhibit 12 a minute, so I understand.

BY MR. MACEK:

Q. So would you say, Captain, that it might reasonably appear to someone that bulk fuel was in fact within mechanical-electrical?

A. Yes.

Q. Now, according to your testimony bulk fuel is within the ground, - I am sorry, the combat sub-program?

A. Combat support, right.

Q. Combat support, and what sort of a "GT" score would that require?

A. The "GT" score is 100 plus.

Q. Do you mean 100 plus?

A. 100 or better.

Q. 100 or better, whereas he only needed 90 to get into mechanical-electrical?

A. Yes.

Q. Do you have any knowledge of Mr. Kasperek's "GT" score?

A. From looking I think it was 98, somewhere in there.

Q. I should use the original exhibit.

THE COURT: While he is looking there, Captain, I see nothing at all in this book about mechanical-electrical.

THE WITNESS: Yes, sir.

THE COURT: Where does it say anything in the book about mechanical-electrical?

THE WITNESS: Sir, that is the occupational opportunities. That is the "MOS's" in the Marine Corps. Guarantees are different.

THE COURT: Then the paper the man initials talks about mechanical-electrical.

THE WITNESS: Yes, sir.

THE COURT: If a recruiter is going to talk to a recruit, how does he explain what mechanical-electrical means by referring to this book?

THE WITNESS: In that instance, sir, he wouldn't be able to.

THE COURT: But if somebody came in and asked for, - says, "I have a friend of mine who has a bulk fuel 'MOS' and he likes his job," I suppose that where that is explained is here at Page 11?

THE WITNESS: Yes, sir.

THE COURT: Is it referred to in any other place in the book?

THE WITNESS: No, sir.

THE COURT: On the other hand, does it say anything about under, - what are the numbers here on Page 11, what does that refer to?

THE WITNESS: That is the basic thirteen hundred "MOS".

THE COURT: I see. The page before, utilities, that would be eleven hundred "MOS"?

THE WITNESS: Yes, sir.

MR. MACEK: And bulk fuel would be --

THE COURT: Please, Mr. Macek, can I finish?

MR. MACEK: Yes, sir.

THE COURT: When Mr. Kasperek finished his boot training he was assigned to be a truck driver.

THE WITNESS: Yes, sir, thirty-five hundred.

THE COURT: Thirty-five hundred. There is nothing said, - I mean it does say here under thirteen hundred that you can become an equipment operator, tractors, cranes, compressors and so forth, but it says nothing about truck driver.

THE WITNESS: Yes, sir. That is not mechanical-electrical guarantee. That is just the "MOS", thirteen hundred, sir.

THE COURT: Could I see your mechanical-electrica guarantee. The mechanical-electrical guarantee encompasses many other "MOS's".

THE WITNESS: Yes, sir.

THE COURT: In addition to thirteen hundred "MOS"?

THE WITNESS: Yes, sir.

THE COURT: Utilities, construction equipment and shore party or motor transport.

THE WITNESS: Yes, sir. If you look under combat support on the job guarantee, combat support on that sheet facing you, right there, sir, you also see the same.

THE COURT: Some of the jobs, of course, would be similar?

THE WITNESS: Yes, sir, yes, sir.

THE COURT: Go ahead, Mr. Macek.

BY MR. MACEK:

Q. The bulk fuel is Number 1391, is that correct?

A. Yes, it is.

Q. And therefore it is within the thirteen hundred

classification?

A. Yes, it is.

Q. The "GT" score that you spoke about, you need the 90 for mechanical-electrical and 100 for ground combat support?

THE COURT: Is this true back in 1974?

THE WITNESS: Yes, it is, sir.

THE COURT: All right.

BY MR. MACEK:

Q. I show you in Government Exhibit 2 at Page, - the lower right corner marked Page Number 5. Do you see, - or first, do you recognize, do you see Mr. Kasperek's name on that page?

A. Yes, I do.

Q. And do you see his "GT" score on there?

A. Yes, I do.

Q. And that score is --

A. 100.

Q. In other words, he would have met the requirements for the sub-program that would fit into his, or that would fit him into the ground sub, - I am sorry, - ground combat sub-program?

A. Yes, sir.

Q. Okay. Referring you back to Government Exhibit 9 about which you testified before, I believe you stated that this is filled out by the recruit before --

A. Before he enters my office, right, he will sign his name.

Q. He will sign that before he enters your office, so then the mere fact that your signature appears next to his does not by itself indicate for sure that you sat down with him?

A. I did in this case because I put my name here.

Q. Now, you signed down here at the bottom also, is that correct?

A. Yes, I did.

Q. And would you read what it says just above your signature?

A. "The above oath subscribed and duly sworn to before me this 26th day of March, 1975".

Q. Wait a minute, sir. Yes, go on.

A. "To the best of my judgment and belief enlistee fulfills all the legal requirements of enlisting this applicant. I have strictly observed all the regulations governing such enlistment. The above oath is filled in as was read to the applicant prior to subscribing thereto."

Q. That "above oath was filled in" phrase, that refers to Item 57 here, oath of enlistment?

A. Yes.

Q. And is that completely filled in or is there anything missing from that?

A. "For a period of" is left blank.

Q. In other words, there is nothing on here that shows how long he is supposed to be signed up for?

A. No, not on that page.

Q. In other words, you signed here below a statement "the above oath as filled in was read to him", even though it wasn't completely filled in at that point?

A. Yes, I did.

Q. And the date of this page is March 26, 1975?

A. Yes.

Q. Referring you to Government Exhibit 10 which you were speaking about before, in this case your signature only appears at the bottom, is that correct?

A. Yes.

Q. Someone else's signature appears up next to Mr. Kasperek's signature?

A. Right.

Q. After Item 55?

A. Yes, it does.

Q. Therefore, you wouldn't have gone over that with him that day, assuming you followed your normal practice?

A. Correct. Well, yes.

Q. Bouncing back to March 26, 1975, the date that Mr. Kasperek went up to the induction station and took the oath and so on, would you, - you don't have any specific recollection of that particular ceremony?

A. No, I don't.

Q. Would you tell us what your practice in, - or, you are the one who gives the oath, is that correct?

A. I am not the only one. I am one of two officers give the oath.

Q. Would you tell us how you go about doing that? Will you describe that ceremony?

A. Okay. When a man comes into my office he has an enlistment package.

Q. Is this a one-on-one situation or are there a number of people?

A. Normally it is a one-on-one situation. There are instances when two or three men come in from one station when the recruiter would like them to be sworn in at one time, and there are instances when the family comes in and they like to be present and normally it is a one-on-one situation. At that time the enlistment package is brought before me. I review the enlistment package as to name, social security number, where he is coming into the service. I review his prior record to see if he is mentally and physically qualified to come

into the United States Marine Corps. I review his guarantee if he has any and if he has any questions about the Marine Corps, about boot camp or about his guarantee.

Q. The guarantee would have been signed before he came in to see you?

A. Yes, and I would ask him if he has any specific questions which I would answer and at that time if there are no questions, I enlist him in the United States Marine Corps.

Q. Do you have him stand up?

A. Yes, I do.

Q. Does he go into a room with the draftees?

A. No. For the "J" program the man would be in my office and he would stand at attention before my desk.

Q. Is your job a busy job, Captain? I mean do you have a lot of work to accomplish?

A. Yes, I do.

Q. Some days are busier than others?

A. Yes, there are.

Q. Are there ever emergency situations or foul ups that demand a lot of your attention so you would have to devote an inordinate amount of time, - say a recruit is injured or a foul up in the transportation or something?

A. On some days, yes.

Q. And it would be fair to say on some of those days that you have a lot of extra to do to take care of a foul up or whatever, you might perhaps rush through some of your other duties or you might at least feel somewhat pressed in doing them?

A. Yes.

MR. MACEK: I have no further questions.

THE COURT: Mr. Wagner?

MR. WAGNER: Just a few questions, Judge.

THE COURT: Could I see Exhibit 12, please.

REDIRECT EXAMINATION BY MR. WAGNER:

Q. Captain, Mr. Macek asked you about Page 5 of Government's Exhibit Number 1. Can you tell me, sir, when that, - Number 2, I am sorry. Can you tell me when that particular page was prepared by looking at it?

A. September 13, 1975.

Q. Let me show you, sir, Government Exhibit 13. Do you recognize that form?

A. Yes, I do.

Q. Can you tell us what that form is, please?

A. That form is filled out at the AFEES Center, the Armed Forces Examination and Entrance Station in the Federal Office Building, and that form is filled out by our

AFEES liaison upstairs after a man is mentally tested.

Q. Can you tell us when that form was prepared?

A. This form was prepared on 17 September, 1974.

Q. And that relates to Mr. Kasperek, is that right?

A. Yes, it does.

Q. Can you tell us whathis "GT" score is from looking at that form?

A. His "GT" score is 98.

Q. I show you Government Exhibit 13. Can you tell us what that is, if you know?

A. This is the Armed Forces aptitude battery worksheet, right after a man is tested this is filled out.

Q. Is Exhibit 15 filled out after Exhibit 13 is filled out?

A. Before.

Q. Before. Can you tell us what day Exhibit 15 was prepared?

A. On 17 September 1974.

Q. And that again relates to Mr. Kasperek?

A. Yes, it does.

Q. What does that reflect his "GT" score is, sir?

A. "GT" is 98.

Q. Now, Captain Carras, would you have any specific recollection of how many Marine recruits you saw on September 26, the day Mr. Kasperek was sworn in?

A. March --

Q. March 26, 1975.

A. By looking at the orders of that day I think there were two people.

Q. I show you Government Exhibit 8 and I ask you if you can tell us what that is?

A. This is the orders given to the men that I swore in on that day.

Q. And that is what date?

A. 26 March 1975.

Q. One of them is Mr. Kasperek?

A. Yes, it is.

Q. Anybody else on there?

A. Yes, an applicant by the name of Krouth, Alfred.

Q. Did you swear in anybody else that day?

A. According to this, no.

Q. So according to that, you saw two Marines that day, is that correct?

A. That is correct.

MR. WAGNER: I have nothing else. Thank you.

THE COURT: Captain, I hope I can get this straight. In Exhibit 12 under "E" which Mr. Kasperek initialed it says "ground sub-program, mechanical-electrical". Now, one of the "either" and one of the eithers is equipment and shore party.

THE WITNESS: Yes, sir.

THE COURT: Is that true?

THE WITNESS: Yes, sir.

THE COURT: In construction equipment and shore party. Now, under "construction equipment and shore party", that is the thirteen hundred series of "MOS's"?

THE WITNESS: Yes, sir.

THE COURT: Under that "bulk fuel man" is included?

THE WITNESS: Yes, sir.

THE COURT: Is that true?

THE WITNESS: Yes, sir.

THE COURT: So in fact a bulk fuel man would come under mechanical-electrical series sub-program?

THE WITNESS: According to the Marine Corps manual it is not one of the job guarantees under mechanical-electrical, sir. Sir, I prepared this before coming over.

THE COURT: I do not care what they do now.

THE WITNESS: This is back then, sir.

THE COURT: It would seem that from reading Exhibit 12 and reading Exhibit 1 which is sort of the recruiter's handbook,

"Guide for Counselors", as it is entitled --

THE WITNESS: Yes, sir.

THE COURT: When you read this it would certainly appear to anyone who looks at it, whether or not he is a recruit or a recruiter or anyone else, that a bulk fuel man would be considered --

THE WITNESS: Yes, sir.

THE COURT: Under mechanical-electrical ground sub-program.

THE WITNESS: Yes, sir.

THE COURT: Can you explain why there is a difference?

THE WITNESS: Sir, explain for the Marine Corps, I think on a specific job guarantee, meaning mechanical-electrical or combat support, when they broke it down they did not define or put it in that book.

THE COURT: Let us say that a man, - a recruiter and a recruit discussed the fact that this man was interested in being a bulk fuel man and then he finished his boot training and he was signed up for the mechanical-electrical sub-program, then

I suppose that under the rules and regulations as explained in the Marine Corps manual in effect at that time that he just could not be assigned to a 1391 "MOS".

THE WITNESS: Yes, sir.

THE COURT: The other thing is in the testimony here Mr. Kasperek said and Mr. Widlak who was his uncle that their interest was in aviation, that he was interested in handling, learning how to handle fuels for jet aircraft and so forth. When I read this on Page 11, concerned with the thirteen hundred, there is nothing, none of these jobs have anything to do with aviation.

THE WITNESS: No, sir.

THE COURT: The aviation "MOS" is completely different. What category is the "MOS" under aviation?

THE WITNESS: That would be 75, 71, 72. There are a number of them, sir, if I may.

THE COURT: Yes. Are these in this book?

THE WITNESS: Yes, sir.

THE COURT: All right.

THE WITNESS: There would be aviation operations, 70; air deliveries, 71; air control and antiair warfare, 67; services, 68; aviation ordinance, 65; avionics, 62.

THE COURT: All right. Let me ask you this, Captain; are any of these general categories, do they have any description, is there any similar "MOS" for aviation, for a man whose job would be a person who would handle fueling of aircraft?

THE WITNESS: Not to my knowledge, no, sir.

THE COURT: I cannot find anything in the book and I thought maybe you might.

THE WITNESS: No, sir. From my knowledge of the aviation fuel, to fuel planes, a crew chief or someone in that line would normally do it.

THE COURT: I see.

RECROSS EXAMINATION BY MR. MACEK:

Q. Captain, just a couple of last questions. The Exhibit 2, Page 5 I showed you a while ago, I misunderstood the date on that. I have been a civilian all my life and I don't understand the military way of writing dates on these and I apologize to the Court. I did not try to

mislead the Court on that. These tests were taken on what date?

A. There is two dates on this page.

Q. There is a date prepared here and that is --

A. September 13, 1975.

Q. And there is another date up here.

A. September the 9th. That would be the day he took the test, I imagine.

Q. And that indicates that his general technical score was to a hundred at that point?

A. 100, yes.

Q. In other words, would it have been possible in your understanding of the manual for him to put in for a classification change to something he might now be qualified for that according to those other tests he might not have been qualified for?

A. Would you just explain?

Q. Could he have put in for a change of classification to something that he was now qualified for by reason of a later test? Is there a procedure for applying for an elevated job classification?

A. If he had a higher "GT", yes, sir.

MR. MACEK: I have no further questions.

THE COURT: Anything else, Mr. Wagner?

MR. WAGNER: Nothing else, Judge.

THE COURT: I wonder, could Sergeant Koponen come back on the stand for a minute, please.

* * * * * *

R O N A L D K O P O N E N, a witness called by and in behalf of the Defendant, having been previously duly sworn, resumed the witness stand and testified further as follows:

EXAMINATION BY THE COURT:

Q. Sergeant, Government Exhibit 1, this is the book that when some individual comes in off the street or how ever he comes in, you would sit down with him or you might let him read it himself if he had some general interest and then if he had some particular question you might then turn to this book?

A. Yes, sir.

Q. To let him know what he might do if he joined the Marine Corps?

A. Yes, sir. Also we have got a guarantee sheet and it is broken down into the fields; under mechanical-electrical there are six or seven different jobs. Under there would be the heading eleven hundred, which would be

utilities, we would go to eleven hundred in here and explain the jobs.

Q. All right. You were here when Captain Carras testified. In this case we have had the testimony of Mr. Widlak and Mr. Kasperek who told us that when they were in there in your office they explained to you that there was a friend of Mr. Kasperek who was in Japan, he was at a Marine air station in Japan and his "MOS", he was a bulk fuel man. Evidently Mr. Widlak, who is Mr. Kasperek's uncle, either worked around aircraft or has some friends that work at the airport here in Buffalo fueling aircraft and for some reason they got the idea that if you became a bulk fuel man that you would be able to get a job in aviation, commercial aviation anywhere in the country handling the fueling of aircraft. Can you remember anything about any of these conversations?

A. No, sir.

Q. You weren't in the court yesterday when Mr. Widlak came in. Do you remember Mr. Widlak coming in with Mr. Kasperek?

A. No, sir.

Q. Let us assume that they said that to you, right?

A. Okay, sir.

Q. Now, what would you show them in the book? They say

"bulk fuel man", what would you do?

A. I would go under the thirteen hundred fuel in the book and show them where bulk fuel is.

Q. All right.

A. And exactly what it is in the book.

Q. What it is. It would say "bulk fuel man installs, operates, maintains and repairs fuel storage, transfer, dispensing and accessory equipment, testing petroleum products, analyze and evaluate whether minimum usable fuel specifications are met, knowledgeable in the concept and installation and operation of amphibious assault bulk fuel handling systems."

A. That's right.

Q. That says nothing about aviation.

A. No, it doesn't.

Q. All right. After you had read that, and assuming a man that said, "I am interested in aviation", what would you do then?

A. Well, first of all, if he is already tested --

Q. Yes.

A. Then we know, like in Mr. Kasperek's position, he was not qualified for any aviation field.

Q. All right. What score would you need for the aviation field in 1974?

A. For maintenance ordinance it would be a "GT" of 100 plus.

Q. All right. The fact that if he got 98 he was two points low?

A. He can't get it.

Q. He cannot get it.

A. No, sir.

Q. You have to draw a line and that is where you draw the line.

A. Yes.

Q. If he said, "Look, I want to get into aviation, I want to be a man handling fuel for jet aircraft", what would you say to him then?

A. I would tell him there is no way possible that he could get the aviation field. I could have very possibly went back to the thirteen hundred field in the mechanical-electrical which he was qualified for and say "Here is the thirteen hundred field, it encompasses these jobs in this book here", but even though thirteen hundred field is in there, I still explained every field that was in the mechanical-electrical.

Q. Evidently his "MOS" that he finally received was in the thirty-five hundred field?

A. Yes, sir.

Q. What kind of a score do you have to get to be in the thirty-five hundred field?

A. "GT" of ninety.

Q. In the thirteen hundred field, what is the "GT" required?

A. Under mechanical-electrical, "GT" of 90. Under combat support it is "GT" of 100.

Q. Under thirteen hundred it is 100?

A. Right, but under combat support program it is 100 in the thirteen hundred field. Under the mechanical-electrical it is only 90 and under the circumstances he wasn't qualified for combat and he wasn't qualified for aviation field. The only relative field he was qualified for was mechanical-electrical.

THE COURT: Anything else?

MR. WAGNER: Nothing else, Judge.

MR. MACEK: Nothing else.

THE COURT: No other witnesses, Mr. Wagner? Do you have anything else?

MR. MACEK: No, your Honor.

THE COURT: Any rebuttal?

MR. MACEK: No, your Honor.

THE COURT: Thank you, Sergeant. Let us do this, let us take a break of about ten or fifteen minutes and then I will listen to whatever you want to call to my attention in the testimony in the case and I think that perhaps I should

make a decision on it at this time, so we will consider this in fifteen minutes, summation period.

We will be in recess.

(Recess taken at 10:55 a.m.)

* * * * * * * * *

don't understand that part of Mr. Wagner's argument.

In sum, I submit that either on the breach of contract theory that I outlined at the beginning of my rebuttal argument or on a mutual mistake or a negligent misrepresentation theory, on either of those theories, I believe, I submit that the plaintiff, the petitioner's entitled to prevail and be discharged on the grounds that the contract is void.

Thank you, your Honor.

THE COURT: Mr. Wagner, could I have Defendant's Exhibit 12 and the booklet, please. You might as well give me, - what do you call that, - the enlistment contract.

I am ready at this time to make my decision in this case.

It appears, generally, it appears from the evidence that Mr. Kasperek and his uncle, Mr. Widlak went to visit Sergeant Koponen and Mr. Widlak had previously spent some six years in the Marine Corps and he evidently believed that it would begin his nephew in a good

career, give him some training in a business. Evidently, also, there was some connection between Mr. Kasperek's mother. She worked in the vicinity there, so she knew Sergeant Koponen.

When they went to visit the sergeant in the first instance, it appeared that Mr. Kasperek had had some conversation with his uncle and also had some information from another relative, a cousin, who it appeared was working as refueling jet aircraft and he described his job as a bulk fuel man.

Mr. Widlak, who evidently had some connection with commercial aviation thought that this would be a good field for Mr. Kasperek to enter and I suppose because of his former connection with the Marine Corps, he believed that this would be a good way to begin.

We also learned in the testimony, that Mr. Kasperek had an interview with the Air Force because of his interest in jet aviation, but he was told that he was not eligible because he had not

completed high school.

In any event, when a visit was made, the literature was provided. Whether it was read in detail or not, is not clear. It would appear from Mr. Kasperek's testimony that he leafed through the material and he talked to Sergeant Koponen. Mr. Widlak was there and he also participated in this initial conversation.

After that, through the months, there were some four or five contacts with the sergeant in which the work that Mr. Kasperek would do when he was in the Marine Corps was discussed. Boot camp was discussed and other problems concerning his entrance in the Marine Corps were discussed.

Some time went by before he finally decided to enlist in the Marine Corps.

In this situation, from Mr. Kasperek's point of view, he tells thus, that he said that he was interested in being a fueler of jet aircraft and that this was the kind of work a bulk fuel man would

do and that is what he was interested in and nothing else and he received assurances from the sergeant that that is the kind of work he would be assigned to. His friend who was with him on several visits, who testified here, the way he phrased the substance of the conversation as he recalled it, was that the sergeant said to him that "You will be able to work your way into bulk fuel because it is part of the mechanical-electrical group". We have had the testimony of Sergeant Koponen. He cannot remember specifically the conversations with Mr. Kasperek about bulk fuel. I suppose this is understandable because he does talk to a large number of people.

In looking at the booklet and looking at Defendant's Exhibit 12, I think there are several points that should be made. It appears that even a very cursory examination of Defendant's Exhibit 1, or Government's Exhibit 1, the booklet, shows that aviation and other specialties are entirely separate;

that the only reference to bulk fuel man appears at Page 11 under the "MOS" thirteen hundred category entitled "Construction Equipment and Shore Party", and thereafter describing the works of various other kinds of people. It describes what a bulk fuel man would do, stating that he installs, - this has been read before several times in the evidence and I will not read it again, but it is absolutely clear from reading the description of bulk fuel man that his job is mainly installation and operation of amphibious assault bulk fuel handling systems. Nothing is said there about aviation. I think even a very quick reading of it would indicate to anyone that if it did have anything to do with aviation, it only would be as an occasional and maybe happenstance because of the particular problems which would be involved.

On the other hand, there are many detailed references to aviation in other parts of the booklet. Under 60 and 61,

"Aircraft Maintenance"; 62, "Avionics"; 65,"Aviation Ordinance"; 67, "Air Control and Aircraft Worker". There is no reference at all here to any kind of "MOS" described as bulk fuel, so it seems to the Court that viewing the entire situation and considering, and I have heard Sergeant's Koponen's testimony, it appears to me if somebody came in and said to him, "I am interested in refueling jet aircraft and not doing anything else", that he would point to the aircraft part of the book and certainly there would not be any discussion about bulk fuel under the thirteen hundred category.

There is some confusion which has been brought about and has been pointed out that in Government Exhibit 12, where entitled "Statement of Understanding, Ground Enlistment Option Program", that is the title. Nothing is said there about aviation; that the statement there made is "Today I have enlisted in the Marine Corps and have been promised that I will be assigned after I successfully complete

recruit training to the ground sub-program, mechanical-electrical". That refers, and he initialed "E", "Ground Program, electrical". This is not a complicated form. There is nothing misleading on the face about it and on the form, it certainly appears very clearly that he could be assigned to either utilities, construction, equipment and shore parties, armament repair, ammunition and explosive ordinance disposal, operational communications, repair services or motor transport, whichever the Marine Corps decides, and under that category, the Marine Corp assigned Mr. Kasperek to motor transport.

We had the testimony today of Captain Carras who explains that the booklet, Government Exhibit 1, when they indicate that construction equipment and shore party, the thirteen hundred classification, bulk fuel man which is 1391, as I understand from the testimony, is not included, the bulk fuel man is not included in mechanical-electrical.

Sergeant Koponen believed it was at the time. He was in error, but it appears to the Court that under all of the circumstances, it did not make any difference because if we, - and we can accept Mr. Kasperek's testimony that he was interested in aviation; if he was interested in aviation, it would appear clear that that is not what he signed up to, not because of any fault I find, on the part of Sergeant Koponen, but it is simply because of his own information that he received from his uncle and from his cousin; that it might have been bad information, but I think that if any questions at all have been asked, and I find that if any questions had been asked of Sergeant Koponen about the duties of a bulk fuel man, that it is clear from reading the book that it has little or nothing to do with aviation.

If there had been any question about aviation that then there would have been a turn to the aviation "MOS" as included in the book.

I think that under all of the circumstances, we should look to what went on here between the parties after that. There was certainly plenty of time for Mr. Kasperek to look into this, to discuss it with anyone he desired before he finally signed up for the Marine Corps. He was not rushed into it. There is no claim here that Sergeant Koponen, in any way, gave him a used car sales talk or anything along that line; that he was open and ready to answer any questions.

The history after Mr. Kasperek entered the Marine Corps, I think, shows that if anything that he has failed to carry the day here. When he received his assignment, he tells us that he did talk to a career planner and said "I am supposed to be in bulk fuel and here I am in motor transport". I think we should note here as an aside that under the score system which was laid out that he could not score high enough to get into aviation and I find and believe that Sergeant Koponen

would have indicated that to him at the very beginning and if he did say "The only thing I want to get into is aviation bulk fuel, refueling of jet aircraft", that the sergeant would have said to him, "You can't do that because your score is not high enough".

In any event, after he received his assignment after boot camp, he did complain to a man referred to, an officer, as a career planner, not otherwise identified. When he came home for his brief leave after boot camp, he did not see Sergeant Koponen at all. This, - I find that this certainly lends support to Mr. Wagner's argument that the man, - here is a man that he had discussed the problem with a number of times. He also had had some contact with Sergeant Koponen about talking to other young men about enlisting in the Marine Corps. Sergeant Koponen was acquainted with his mother. There does not appear at this time that Mr. Kasperek, although it is understandable that maybe he did not

want to worry his mother or his father who was seriously ill at the time, but he did not talk to his uncle, his uncle who was the fellow that made the first visit with him when he went to see Sergeant Koponen, so he was silent about his complaint that he did not receive the assignment that the Marine Corps, in his view, had promised him.

The next thing that happened, he then came back and he worked around motor vehicles for some time and then he received a Christmas break and he was home for ten days toward the latter part of December and early January. Again, nothing said to anyone here, Sergeant Koponen or anyone else about failure of the Marine Corps to give him the assignment he should have had. Things then begin to develop around the 16th of January, the day he got the ticket.

Maybe it should not have. In your words, Mr. Macek, "It is a heck of a way to get mad at the Marine Corps" or "A heck of a way to get mad at the Marine

Corps about", but it does appear to have precipitated something because it was at that time, as I understand it, when he complained to a number of people about, - well, I am not sure. I guess that it was not on the 16th, but he left again, returned to Hamburg and returned because he had a check coming and when he went back on the 20th of January, then he complained to two or three people about the failure to get the "MOS" assignment that he believed he should have had in the first place.

I find that under all the circumstances, that the petitioner has failed in the burden of proof here, failed to show by a preponderance of the evidence that now we know that the fraud is out of the case, that there was any misunderstanding between the parties which led to, - which leads to a conclusion that this contract of enlistment should be set aside. The misunderstanding, if any, was brought about by the activities of Mr. Kasperek.

It is important in our affairs and we recognize it in the law that writing means something. When you put your John Hancock on a paper, it means something. It is no excuse to say that a person is not a reader, but he is a listener because when you stand before someone like Captain Carass and take an oath to join the Marine Corps, that means something and now I am going to leave Mr. Kasperek. He has administrative remedies which the Government has pointed out and as far as my conclusions here, the conclusions of the Marine Corps may be different. Certainly, as far as the booklet and program, they ought to get that straightened out, cleared up, because in other cases, it could lead to a situation where a person is misled and in this case, I find that Mr. Kasperek was not misled.

Mr. Wagner, I will delay filing the order dismissing the petition until a week from today. It is now the 16th. That will be July 23rd. In the meantime,

Mr. Macek, that will enable you to have an opportunity to discuss with your client what should be done here, but after that, if no steps are taken, making either an application for a stay, either to me or to the, - of course, you cannot do anything with the Circuit Court until after you make an application to me, that he must be ready to, - whatever the orders are from the Marine Corps, - which would be cut after that date, made after that date, to follow the direction, but I will delay the entry of the order until July 23rd.

MR. MACEK: Yes, your Honor.

THE COURT: Very well. Nothing further, we will be in recess.

(Proceedings herein concluded at 12:20 p.m.)

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I certify that the foregoing is a complete and accurate transcription of my shorthand notes taken herein.

E. F. KNISLEY, Official Reporter, USDC, WDNY.

H. T. Noel & E. F. Knisley
OFFICIAL REPORTERS, U. S. DISTRICT COURT
WESTERN DISTRICT OF NEW YORK